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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1430

RIN 0560–AI23

Margin Protection Program for Dairy and Dairy Product Donation Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This rule implements regulations for the Margin Protection Program for Dairy (MPP-Dairy) and the Dairy Product Donation Program (DPDP) as authorized in subtitle D of the Agricultural Act of 2014 (the 2014 Farm Bill). MPP-Dairy provides dairy producers with risk management coverage that will pay producers when the difference between the price of milk and the cost of feed (the margin) falls below a certain level. MPP-Dairy provides basic catastrophic level coverage for an administrative fee, and greater coverage for a premium in addition to the administrative fee. Amounts of coverage and premiums vary based on producer selections. This rule specifies the eligibility requirements and payment formulas for MPP-Dairy. Under the related DPDP, which is a complimentary program designed to support producer margins by increasing the price of milk, the U.S. Department of Agriculture (USDA) will buy dairy products when the margin falls below a certain level, and will distribute those products to individuals in low-income groups through public and private non-profit organizations. The Farm Service Agency (FSA) will operate both programs using funds of the Commodity Credit Corporation (CCC). The USDA Food and Nutrition Service (FNS) will assist in the distribution of the dairy products under DPDP.

DATES: *Effective Date:* This rule is effective August 29, 2014.

Comment Date: We will consider comments we receive by October 28, 2014.

ADDRESSES: We invite you to submit comments specifically to address the questions related to intergenerational transfers in this document. In your comment, please specify RIN 0560–AI18 and include the volume, date, and page number of this issue of the **Federal Register.** You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments; or
- Mail, Hand Delivery, or Courier Danielle Cooke, Special Programs Manager, Price Support Division, FSA, USDA, STOP 0512, 1400 Independence Ave. SW., Washington, DC, 20250–0512.

All written comments will be available for inspection online at *www.regulations.gov* and at the mail address above during business hours from 8 a.m. to 5 p.m., Monday through Friday, except holidays. A copy of this rule is available through the FSA home page at *http://www.fsa.usda.gov/.*

FOR FURTHER INFORMATION CONTACT: For MPP-Dairy: Danielle Cooke; telephone: (202) 720–1919. For DPDP purchases: Christine Gouger, telephone: (816) 926–3379. For DPDP donations: Anne Fiala, telephone: (703) 305–2662. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600.

SUPPLEMENTARY INFORMATION:

MPP-Dairy—Overview

This final rule establishes the regulations for the new MPP-Dairy as specified in sections 1401–1410 of the 2014 Farm Bill (7 U.S.C. 9051–9060, Pub. L. 113–79). MPP-Dairy provides a risk management program for dairy operations and is authorized through December 31, 2018.

MPP-Dairy is a voluntary risk management program that provides payments when the margin between the national average milk price and a national average feed cost falls below a specified ''trigger'' level. Eligible producers may purchase coverage for their dairy operations by paying an administrative fee, and a premium as applicable. The coverage is for a dairy operation; all producers in an operation must agree to register the operation for the program in order for that operation to be eligible for MPP-Dairy coverage. MPP-Dairy pays dairy operations when the national margin falls below the operation's selected margin trigger for one of the specified 2-month periods in this rule. As part of the initial registration process, dairy operations must agree to carry MPP-Dairy coverage through calendar year 2018, but they can select a different level of coverage during each annual enrollment period. At the time of registration and annually thereafter, the dairy operation must make coverage level elections. For example, if margins are consistently above the trigger point or the dairy operations decide they want only limited coverage, the operation may switch during the annual enrollment from a coverage level with a higher premium to the catastrophic coverage level with a lower or no premium, but they cannot drop coverage altogether, except in cases where a producer is retiring, dies, or the operation goes out of business.

Eligible Operations for MPP-Dairy

Any dairy operation that produces and commercially markets milk in the United States may register for MPP-Dairy. As required by the 2014 Farm Bill, to be an eligible dairy operation for MPP-Dairy, each of the producers in an eligible dairy operation must share in the risk of production, and must make contributions (including capital, land, labor, equipment, or management) to the operation commensurate with such producer's share of the proceeds. Participating dairy operations can be operated by more than one producer. A single producer may be member of more than one operation and each operation may separately participate in MPP-Dairy.

Definition of a Dairy Operation

This rule specifies that any dairy facility that was part of a single dairy operation that was eligible for and participated in the Milk Income Loss Contract (MILC) Program administered by FSA as of February 7, 2014 (date of enactment of the Agricultural Act of 2014) is a ''dairy operation'' for the purposes of MPP-Dairy. All other operations must meet the requirements specified in this rule to be a dairy

operation for the purposes of MPP-Dairy these include the criteria and procedures established under the MILC Program. Operations that are determined to be ''new operations'' under this rule, will be subject to the ''affiliation'' test if the operation elects to participate in MPP-Dairy separately.

For the purposes of this rule, a ''new'' operation is one that did not produce and commercially market milk at least 12 full months as of February 7, 2014. Under certain circumstances new operations may participate in MPP-Dairy and existing operations can restructure and still be eligible for MPP-Dairy. A dairy operation can be sold or transferred and keep MPP-Dairy eligibility. The main restriction on eligibility for a new operation is that an existing operation that restructures or reconstitutes cannot result in an increase in production history as a whole.

Production History for MPP-Dairy

MPP-Dairy payments for a given dairy operation are based on a coverage level and percentage of coverage annually elected by a participating dairy operation for the operation's production history. Such production history for existing operations with at least a year of production history as of February 7, 2014, will be the highest of the operation's annual milk marketings in any one of 2011, 2012, or 2013 calendar years, subject to an annual upward adjustment in subsequent years to reflect any increase in the national average milk production as specified in this rule.

Eligible production history for new operations will be determined by one of two methods, at the election of the dairy operation. The first option is to extrapolate from actual production data for the first calendar year with at least one full month of production history, adjusted using a national seasonality index to calculate a yearly amount of production. The national seasonality index was created by FSA using monthly milk production data for 2009 through 2013. Since milk production naturally fluctuates in some regions during different seasons of the year, the index is needed to extrapolate a full year production amount from partial year production data. To develop the index, the total milk production for the 5 years for each individual month was divided by the total annual milk production for those years to determine the share of annual milk production produced in each month. The resulting figure is the seasonality index that is set for the duration of MPP-Dairy. Alternatively, new operations may choose a second option to determine production history. Under this option, annual production would be estimated based on the herd size of the dairy operation relative to the national ''rolling herd average'' production data published by the Secretary.

As required by the 2014 Farm Bill, the production history amount established for an operation will never be reduced because of changes in national milk production, but may only be increased. Once a dairy operation has enrolled in MPP-Dairy and the production history is established for that operation, USDA in subsequent years will update the production amount to reflect annual changes in the national average milk production. That adjustment factor will be announced each year.

The production history is established for a participating dairy operation, and it is assigned to that operation, not to an individual producer. If a participating dairy operation, with an established production history, sells or changes ownership of the operation, the established production history will stay with that operation, and be assigned to the new owner. For participating dairy operations, with an established production history, that relocate or otherwise move their operation to another location, the production history will move to the new location. If the new location has existing production history, the production history may be reconstituted that combines the production history of the relocated operation and the new location to the new location and become available for the next calendar year of coverage.

Section 1410 of the 2014 Farm Bill specifies that USDA is required to establish regulations that ''prohibit a dairy producer from reconstituting a dairy operation for the purpose of the dairy producer receiving margin protection payments.'' This rule therefore prohibits an increase in production history as a result of most restructurings and reconstitutions. Only in cases where a dairy producer purchases a dairy operation with no established production history can a new history be established, subject to the affiliation rule. For example, if a father and son jointly operate a dairy and the son decides to leave and purchase a dairy operation that is already participating in MPP-Dairy with an established production history, the son would get the production history already established by the participating dairy operation and would not be considered a new dairy operation for the purposes of MPP-Dairy. (No new production history would be created; it would only be transferred.) However, if the son purchased a dairy operation that lacked any production history, then the son may be considered a new dairy operation for MPP-Dairy purposes and could establish a new production history for that operation, subject to the affiliation rule.

Other Eligibility Requirements and Limits

MPP-Dairy benefits are not subject to payment limitations or average adjusted gross income (AGI) limitations that apply to most FSA and CCC programs. However, these benefits are subject to the conversation compliance requirements provided for in 7 CFR part 12. Further, there is no set program maximum number of pounds any dairy operation can cover under the program. MPP-Dairy's coverage limitation for a specific dairy operation is 90 percent of the operation's production history.

In general, all U.S. dairy producers are eligible to participate in MPP-Dairy through their eligible dairy operation; however, producers cannot participate in both MPP-Dairy and the Livestock Gross Margin for Dairy (LGM-Dairy) insurance program administered by the USDA Risk Management Agency (RMA). For 2014 and 2015, producers already enrolled in LGM-Dairy may register for MPP-Dairy, but in no case will they receive benefits from both programs. If an operation with LGM-Dairy coverage registers for MPP-Dairy, coverage under MPP-Dairy will not become effective until after the target month of marketings under LGM-Dairy has ended or the dairy operation provides proof that the LGM-Dairy policy has been cancelled.

MPP-Dairy Coverage Levels

As part of the annual coverage election process for MPP-Dairy, the dairy operation is required to select the level of coverage and pay an administrative fee and, if applicable, a premium based on the level of coverage elected. In addition, once a participating dairy operation registers for MPP-Dairy, regardless if it fails to make a coverage election, it must annually pay the administrative fee through December 31, 2018. The level of coverage chosen by a participating dairy operation requires two selections. One is the margin trigger (between $4 and $8 per hundredweight (cwt), in 50 cent increments); the other is the percentage of production history that will be covered (from 25 percent to 90 percent, in 5 percent increments). The operation can only select one margin trigger level and one percentage of production history; the operation cannot ''split'' the operation's coverage and, for example, purchase $4 margin

coverage on 25 percent of production history and $8 coverage on 50 percent of production history. (At the catastrophic level coverage of $4, the producer will be paid when the margin, the difference between the price of milk and the cost of feed, falls below $4.)

As specified in the 2014 Farm Bill, operations may elect a $4 per cwt margin trigger for the administrative fee of $100 with no premium owed. This rule defines this to be catastrophic level coverage, in that it provides the lowest level of margin protection offered under MPP-Dairy. If $4 margin coverage is selected, 90 percent of production history will be covered, the maximum amount of production coverage allowed by the 2014 Farm Bill. Alternatively, participating dairy operations may elect a higher margin trigger, up to $8 per cwt of milk (in 50 cent increments), for 25 percent to 90 percent of production (in 5 percent increments). Margin triggers higher than $4 require payment of a premium. At each margin trigger level, corresponding rates are different with respect to the first 4 million pounds (40,000 cwt) of covered production history and covered production history above 4 million pounds. As specified in the 2014 Farm Bill, the premiums for the first 4 million pounds of eligible covered production history will be reduced by 25 percent for each of calendar years 2014 and 2015.

The annual premium rates listed in this regulation are specified in the 2014 Farm Bill. USDA has no discretion to set different premium rates other than those in the 2014 Farm Bill. The premium will be determined based on the producer's election of each of the margin trigger and percentage of coverage. The schedule of premiums below refers to these levels as Tier 1 (first 4 million pounds of production history covered by the program) and Tier 2 (covered production in excess of 4 million pounds).

For example, a dairy operation with a production history of 6 million pounds that elects a coverage level of $6 and a 50 percent coverage percentage will pay a premium based on the premium rate for covered production history for up to 4 million pounds because as a function of the dairy operation election to cover at the 50 percent rate, only 3 million pounds of production history is being covered by the program. (Note that production history is in pounds, while the premium schedule below is per cwt, so we divide covered production by 100 to calculate the premium). Therefore, in this example, the dairy operation pays a premium for a calendar year of coverage during 2016, in the amount of $1,650 based on 6 million pounds covered at a 50 percent coverage level, yielding 3 million pounds of covered production history. The 3 million pounds of production history multiplied by $0.055, the premium at the $6 margin level for covered production up to 4 million pounds (50 percent of 6 million is 3 million; 3 million divided by 100 is 30,000 cwt; 30,000 cwt x $0.055 per cwt =$1,650). The premium schedule is as follows; the 2014 Farm Bill specifies the amounts:

Coverage level (margin)	Tier 1 Premium per cwt in 2014 and 2015 (for the covered [1] production history that is 4 million pounds or less) [2]	Tier 2 Premium per cwt, all years (for the part of covered [1] production history over 4 million pounds)
$4.00	None	None
$4.50	$0.008	$0.020
$5.00	0.019	0.040
$5.50	0.030	0.100
$6.00	0.041	0.155
$6.50	0.068	0.290
$7.00	0.163	0.830
$7.50	0.225	1.060
$8.00	0.475	1.360

[1] The "covered production history" is the amount elected for MPP-Dairy coverage by the dairy operation; this will be 25 percent to 90 percent. The catastrophic coverage level provided at the $4 margin is 90 percent.

Coverage level (margin)	Tier 1 Premium per cwt in 2016, 2017 and 2018 (for the covered [1] production history that is 4 million pounds or less)	Tier 2 Premium per cwt, all years (for the part of covered [1] production history over 4 million pounds)
$4.00	None	None
$4.50	$0.010	$0.020
$5.00	0.025	0.040
$5.50	0.040	0.100
$6.00	0.055	0.155
$6.50	0.090	0.290
$7.00	0.217	0.830
$7.50	0.300	1.060
$8.00	0.475	1.360

[1] The "covered production history" is the amount elected for MPP-Dairy coverage by the dairy operation; this will be 25 percent to 90 percent. The catastrophic coverage level provided at the $4 margin is 90 percent.

The following is an example with higher coverage levels and both tiers of premium: If a dairy operation with an established production history of 10 million pounds elects a coverage level of $8 and a 75 percent coverage percentage, 7.5 million pounds would be considered covered production history (10,000,000 × 0.75), and of that 7.5 million pounds, 4 million pounds would be assessed at $0.475 rate from the lower (Tier 1) premium schedule for production at 4 million pounds or less (4,000,000 × $0.475/100 = $19,000), and the remaining 3.5 million pounds of covered production history would be assessed at the $1.360 rate from the higher premium schedule for production in excess of 4 million pounds (3,500,000 × $1.360/100 = $47,600). The dairy operation would pay a total premium for a calendar year of coverage in the amount of $66,600 ($19,000 + $47,600) based on 7.5 million pounds of covered production history that falls under each premium schedule at the $8 coverage level.

For calendar years 2014 and 2015, the premium per cwt for covered production that falls under the first 4 million pound premium schedule will be reduced by 25 percent, except at the $8 coverage level, from the table shown above. The premium reduction is required by the 2014 Farm Bill. FSA will provide premium calculators on the FSA Web site, so that producers can evaluate the costs of different coverage options easily.

Registration Process

Registration of a dairy operation under MPP-Dairy results in a multi-year contract between CCC and the dairy operation. As discussed above, dairy operations agree to pay an administrative fee to register and annually thereafter through December 31, 2018. In addition, a participating dairy operation is obligated to pay the premium, if any, associated with its annual coverage elections, through calendar year 2018.

The $4 per cwt margin level coverage is available for a $100 administrative fee, without premium; higher levels of coverage are available for a premium plus the administrative fee. Operations must pay at least half the premium for the year (if applicable), plus the $100 administrative fee, at the time of the election of coverage. Once the election period has ended, a dairy operation's election of coverage is final and it can be changed only for the next calendar year of coverage during the next election period.

The 2014 Farm Bill requires that USDA offer more than one method by which a participating dairy operation may pay the required premium in any manner that maximizes participating dairy operation payment flexibility and program integrity. Unless otherwise determined by the Deputy Administrator, at the time of coverage election, operations must pay either:

(1) The full premium plus the administrative fee; or

(2) A minimum of 50 percent of the total premium (if applicable) plus the administrative fee, with the remaining balance due no later than June 1 of the applicable calendar year of coverage.

However, a premium calculated for calendar year 2014 only (which provides coverage through December of 2014) must be paid in full at the time of coverage election. The coverage election period for 2014 partial year coverage and 2015 full year coverage will both be during the fall of 2014. New operations registered during a calendar year starting in 2015 will be allowed to pay a prorated premium for the first year of participation.

If an operation fails to pay either the required annual administrative fee or premium owed on time, it remains obligated for payment of such administrative fee and entire premium, but will lose coverage until the premium is paid. If an operation does not make an annual coverage level election, it will still be liable for the administrative fee for the following year. It will automatically receive coverage at the $4 coverage level at 90 percent, but only if the administrative fee is paid. For dairy operations that want to continue coverage levels established in the prior calendar year, the Deputy Administrator will establish a procedure to allow such coverage levels to continue that will include the requirement of a timely payment of administrative fees and any premiums, if applicable.

How Margins Are Calculated To Determine Payments

The 2014 Farm Bill specifies what prices for milk and feed USDA is required to use to calculate the ''actual dairy production margin.'' The margin, based on published USDA national data for milk and feed prices, is used to trigger payments under MPP-Dairy and the authority to make purchases under DPDP. The 2014 Farm Bill requires the margin to be based on the average price received, per cwt of milk, by dairy operations for all milk sold to plants and dealers in the United States. It also requires calculation of a national average feed cost, based on specific sources for the monthly price of corn, soybean meal, and alfalfa hay. Therefore, MPP-Dairy uses USDA-reported monthly national average price data for all classes of milk (the all-milk price) and the cost of the three specified feeds, which represent the bulk of purchased feeds in dairy rations (corn, soybean meal, and alfalfa hay) to calculate the ''actual dairy production margin'' by subtracting from the price for a cwt of milk produced the cost of an average feed ration used to produce a cwt of milk. The 2014 Farm Bill prescribes that USDA calculate the actual dairy production margin in consecutive 2-month periods.

If the actual dairy production margin falls below the selected margin coverage level of an operation for any such consecutive 2-month period, that operation will be eligible for a payment under MPP-Dairy. For example, if, for a particular consecutive 2-month period, the actual dairy production margin is $6, and the operation has chosen $4 coverage level, there will be no payment, but if the operation had chosen the $7.50 coverage level on 50 percent of production, it would have been paid $1.50 times 50 percent of its covered production history. A recalculation would occur in each subsequent 2-month period. MPP-Dairy pays only on the basis of such 2-month periods; in no case does the program pay for a period of low margins shorter than such 2-month periods.

USDA will calculate the actual dairy production margin using the national ''all-milk price'' minus the national ''average feed cost,'' as those terms are specified in the 2014 Farm Bill. If the actual dairy production margin calculation produces a negative number, then the margin will be considered zero. For example, if the cost of feed is higher than the price of milk by $1 per cwt, the margin will be considered to be zero. The term ''all-milk price'' is defined in the 2014 Farm Bill to mean the average price received, per cwt of milk, by dairy operations for all milk sold to plants and dealers in the United States, as determined by USDA. The term ''average feed cost'' is defined to mean the average cost of feed used by a dairy operation to produce a cwt of milk using the sum of:

- 1.0728 times the price of corn per bushel;
- 0.00735 times the price of soybean meal per ton; and
- 0.0137 times the price of alfalfa hay per ton.

The 2014 Farm Bill specifies which USDA-published price series FSA is required to use for such prices; FSA has no discretion in what prices to use.

The 2014 Farm Bill requires the margin to be calculated using specific

consecutive 2-month pairs—January and February, March and April, May and June, July and August, September and October, and November and December.

If a dairy operation has a premium due at the time it becomes eligible for a payment under MPP-Dairy, the premium will be automatically deducted from the payment. If the premium is overdue (past June 1 of the coverage year) however, an operation will not be eligible for a payment, because it will have lost coverage. In the case of an operation with an overdue premium, the operation will regain coverage only after any overdue premium is paid, in which case it would be eligible for the next consecutive 2-month period after such payment of premium.

DPDP—Overview

In addition, this rule provides regulations for DPDP, authorized by section 1431 of the 2014 Farm Bill (7 U.S.C. 9071). DPDP shares certain goals of MPP-Dairy, in that it is intended to support dairy producer margins by triggering the obligation to purchase dairy products when the dairy production margin fall below a certain level. Under DPDP, USDA will purchase dairy products to support dairy producer margins and to provide such products to individuals in low-income groups through public and private non-profit organizations. The 2014 Farm Bill specifies that such purchases will be made whenever the ''actual dairy production margin'', calculated using a formula prescribed in the 2014 Farm Bill, is determined to be $4 or less per cwt for 2 consecutive months.

The 2014 Farm Bill specifies that the same margin calculation is used for both MPP-Dairy and DPDP. The ''actual dairy production margin'' is, as it is under MPP-Dairy, the difference between the ''all-milk price'' (the average U.S. price for producer milk sold to plants and dealers as specified in section 1401 of the 2014 Farm Bill (7 U.S.C. 9051)) and the average feed cost determined using the formula specified in sections 1401 and 1402 (7 U.S.C. 9052) of the 2014 Farm Bill. The feed cost formula is the same as specified for MPP-Dairy, and was discussed above in the MPP-Dairy section of this document. Once triggered, DPDP purchases end when—

- DPDP purchases have occurred for 3 consecutive months (regardless of the actual dairy production margin at the end of those 3 months),
- The actual dairy production margin for the previous month goes above $4 per cwt, or
- The U.S. price for cheddar cheese or nonfat dry milk (NDM) exceeds the world price by certain levels (5 percent if the actual dairy production margin is at or below $4 but above $3 or 7 percent, if such margin is $3 or less).

DPDP is intended to time its purchases to support dairy producers in times of low margins, reinforcing and supporting the dairy producer support provided by MPP-Dairy. Reflecting that relationship, the 2014 Farm Bill specifies that DPDP is required to be established no later than 120 days after the Secretary certifies that MPP-Dairy is operational. USDA has chosen to make the two programs effective at the same time. The Secretary determined that additional time was not required to implement DPDP as FSA and FNS will be able to use existing expertise with purchasing and distributing similar products to the same recipients.

As specified in section 1431 of the 2014 Farm Bill, DPDP purchases will be distributed for domestic consumption by individuals in low-income groups through public and private non-profit organizations. Further, the DPDP purchases cannot be stored by CCC. DPDP purchases will be made in package sizes suitable for immediate household use, to facilitate direct distribution to individuals through participating public and private nonprofit organizations. The 2014 Farm Bill specifically prohibits re-sales of DPDP-purchased products into the commercial market.

The 2014 Farm Bill requires USDA consultation with public and private nonprofit organizations that feed low-income groups, in order to determine the types and quantities of dairy products to be purchased and distributed under DPDP. This will be achieved through existing FNS food program consultations.

Administration of DPDP

This rule implements DPDP as specified in the 2014 Farm Bill. DPDP purchases will be made using CCC funds. The 2014 Farm Bill authorizes DPDP through December 31, 2018. As specified in this rule, FSA will operate DPDP for CCC with assistance from FNS.

Distribution of DPDP purchases will be made to public and private non-profit organizations eligible to participate in FNS' food distribution programs for low-income individuals.

Purchase quantities may be limited to meet the 2014 Farm Bill's immediate distribution requirement, taking into account impacts on present demand in order to limit potential short- and long-term market disruptions.

When will FSA make DPDP purchases?

The 2014 Farm Bill specifies that the DPDP purchases are required to start after any consecutive 2 month period when margins are below $4, with a maximum of 3 consecutive months of purchases. If prices rise above the $4 margin level during a month of purchases, DPDP purchases will terminate at the end of that month, so in that case it might operate for only 1 or 2 months. As specified in the 2014 Farm Bill, after 3 consecutive months of purchases, the DPDP purchases are required to cease (terminate) until there have been at least 2 more consecutive months of margins of $4 or less.

Because full data for a given month is not available until the following month (see example below) and the 2014 Farm Bill requires that program activity be on a monthly basis, this effectively means that no purchases may be made for 3 months following the end of a purchase period, even if margins remain below the trigger level. This rolling ''up to 3 months on, 3 months off'' procedure for DPDP purchases is consistent with the 2014 Farm Bill goal of having a long-term intermittent tool for addressing low margins and providing nutrition assistance. DPDP is intended to time its purchases to support dairy producer margins by reducing the supply of dairy products. Given relatively inelastic (constant) demand, such purchases should drive the market price of dairy products up, hopefully also driving margins above the trigger level. In some cases, prices and margins will rise sufficiently to engender only a 1or 2-month purchase period. In that case, the 3 month ''off'' requirement still applies, as required by the 2014 Farm Bill.

Data for calculating the domestic versus world price differential will not be available immediately at the end of a month, so DPDP purchases will not commence or terminate until the full month after all data for a month becomes available. For example, and as shown in the chart below if actual dairy production margins in May and June fall below the ''trigger'' level, the data for June would be available in July, but not in time to start making DPDP purchases immediately on July 1. Therefore, the DPDP purchases would start in August based on May and June data. If July data, which would be available in August, showed that margins were still below the trigger, DPDP purchases would continue in September. If margins rise above the trigger level in July, the DPDP purchases would terminate at the end of August, and the next eligible month for calculations would be September. If margins in

September and October were below the trigger level, with October data available in November, the DPDP purchases would start up again in December. But if margins remained consistently below the trigger level for the entire period in this example, the DPDP purchases would continue in September and October, based on May, June, July, and August data, and could not start up again until February, based on November data and December data, which would become available in January. The following chart shows an example of the timing for the determination of DPDP purchases.

DPDP PURCHASE DETERMINATION EXAMPLE

[Based on dairy production margins and 3-month maximum for purchases [1]]

2 Consecutive months	Calculate margin for 2 consecutive months [2]	If both margins below $4 per cwt in the 2 consecutive months	3-Month maximum consideration	If either margin above $4 per cwt in the 2 consecutive months
January and February.	March	Dairy product purchases [3] begin in April.	1st month of purchases	No purchases.
February and March.	April	Dairy product purchases [3] begin in May.	2nd consecutive month of purchases	No purchases.
March and April	May	Dairy product purchases [3] begin in June.	3rd consecutive month of purchases	No purchases.
April and May	June [4]	No purchases; terminated after 3 consecutive months.	3-month maximum reached (1st month off).	No purchases.
May and June	July	No purchases; terminated after 3 consecutive months.	3-month maximum reached (2nd month off).	No purchases.
June and July	August	No purchases; terminated after 3 consecutive months.	3-month maximum reached (3rd month off).	No purchases.
July and August	September	Dairy product purchases [3] begin in October.	1st month of purchases	No purchases.
August and September.	October	Dairy product purchases [3] begin in November.	2nd consecutive month of purchases	No purchases.
September and October.	November	Dairy product purchases [3] begin in December.	3rd consecutive month of purchases	No purchases.
October and November.	December	No purchases; terminated after 3 consecutive months.	3-month maximum reached (1st month off).	No purchases.
November and December.	January	No purchases; terminated after 3 consecutive months.	3-month maximum reached (1st month off).	No purchases.

[1] This example assumes that purchases begin in January. In reality, DPDP can—depending on prices and margin triggers—begin on September 1, 2014, which is the start of MPP-Dairy.

[2] The full month data for a given month is available at the end of the following month. For example, January data are not available until the end of February.

[2] Purchases cannot begin unless domestic cheddar cheese or nonfat dry milk prices are at certain differentials relative to world prices.

[3] In the example, June is the 3rd month of consecutive purchases. June would not be calculated as a potential trigger month, but it is shown on the chart to clearly show the concept of 3 months on and 3 months off for purchases. If purchases are taking place during a month, that month cannot be used as a trigger month for a future purchase period.

The trigger level is a $4 margin per cwt of milk, with an additional requirement from the 2014 Farm Bill that USDA's authority for purchases will end if the U.S. price and world price differential for cheddar cheese or nonfat dry milk exceeds certain percentage levels, even when margins remain at $4 or less. In other words, FSA will stop making DPDP purchases, even if the margins are at $4 or less, if the U.S. price for certain dairy products is significantly above world prices. As required by the 2014 Farm Bill, FSA will stop making DPDP purchases if the margin is $4 or less but above $3 and the U.S. price is more than 5 percent above the world price or if the margin is at or below $3, DPDP will not make purchases if the price differential is more than 7 percent.

If DPDP purchases were suspended due to domestic prices being sufficiently above world prices, margins would be tracked for the next 2 months, and purchases could begin after 3 months. For example, at the end of July, it would be known if May and June margins were at or below $4 per cwt. If margins for both May and June were at $4 or less per cwt, and the relation between domestic and world prices did not preclude it, the DPDP purchasing process would start August 1. At the end of August, the July margin could be calculated and if at $4 or less per cwt, DPDP purchases would continue in September (the second consecutive month ''on''). If the July margin were above $4 per cwt, DPDP purchase activity would cease August 31, and DPDP purchases could next be made in December (after the required 3 months ''off''), if September and October margins were at $4 or less per cwt. If July and August margins were both at $4 or less per cwt, DPDP purchases would continue in September and October and end due to the 3-month maximum of purchases. If November and December margins were at $4 or less per cwt, DPDP purchase activities could begin again in February (after the required 3 months ''off'').

DPDP will not stop or start making purchases in the middle of a month even if the margin or the world price data has hit one of the ''trigger'' numbers mid-month.

U.S. Price Versus World Market Price Differential Trigger

The calculations for the price differential determination (which require a comparison of U.S. prices and world prices) as specified in this rule allow FSA to consult with other agencies of USDA that collect foreign and domestic price data, such as the Agricultural Marketing Service (AMS). The 2014 Farm Bill specifies that USDA is required to calculate the differential between U.S. prices and world prices for cheddar cheese and nonfat dry milk; it does not specify what data FSA should use for U.S. prices or world prices. For world prices FSA expects (although not specified in the

regulations) to use the AMS Oceania price series because of the quantity of sales in that series. Alternatively, FSA could use a multi-region weighted average or some other method to make the determinations, if those other methods are more appropriate for calculating a relevant world price. FSA expects to base U.S. prices on the AMS monthly prices for cheddar cheese and nonfat dry milk, although FSA may use a different data set, as needed.

FSA intends to post the price calculation method and results, and purchase determinations, on the FSA Web site. If another method proves to be more appropriate for providing information to the public, it will replace the planned on-line posting.

Product Determinations

The 2014 Farm Bill requires USDA consultation with public and private nonprofit organizations to determine the types and quantities of products to purchase through DPDP. This requirement will be met by FNS's existing food program consultations with groups involved in the distribution of food to low-income people, including food banks, State and local agencies, and advocacy organizations. DPDP purchases are expected to be made in package sizes suitable for immediate household use, to best accommodate the immediate distribution requirement of the 2014 Farm Bill, in a manner that is cost effective to the U.S. taxpayer.

Comments Requested on Cost Effective Purchases

FSA is requesting comments on how to best administer the dairy product purchases for DPDP to ensure that dairy prices are increased in the most cost effective way. In your comments, please suggest options and provide data to show the cost effectiveness of the suggestion as it relates to the goals of DPDP.

Distribution and Use of DPDP Purchases

The 2014 Farm Bill requires that products purchased under DPDP will:

- Be distributed in a manner that encourages their domestic consumption by individuals in low-income groups;
- Be distributed using the services of public and private nonprofit organizations; and
- Not be resold back into commercial markets by any organization that receives them.

It is expected that all these requirements will be addressed as specified in the regulations for the existing FNS programs through which the products will be distributed. Public or private nonprofit organizations that receive DPDP products may transfer those products to other nonprofits only if the transferee will likewise distribute to domestic low-income recipients without cost or waste, consistent with existing FNS regulations. FNS regulations in 7 CFR 250.13(d)(1) provide that donated foods ''be distributed only to recipient agencies and individual recipients eligible to receive them'' under applicable program regulations. FNS regulations in 7 CFR 250.13(a)(1)(ii) provide that donated foods ''not be sold, exchanged or otherwise disposed of without the approval of the Department.'' Any losses of donated foods resulting from improper distribution or use will be subject to the requirements of 7 CFR part 250 and the instruction and guidance provided in FNS Instruction 410–1, Rev 2 ''Claims for Losses of Donated Foods and Related Administrative Losses—Procedures for the State Distributing Agency,'' and in FNS Instruction 420–1, ''Managing Agency Debts.''

Start of DPDP

This rule specifies that DPDP is effective the day this rule is published, in the sense that it provides the regulations and purchase authority necessary to operate DPDP, but FSA will not make DPDP purchases unless other price and margin requirements are met.

Because MPP-Dairy and DPDP use the same definition of actual dairy production margin, which is defined in the 2014 Farm Bill using existing USDA reported data, FSA will have data on actual dairy production margins the day this rule is effective. Therefore, if margins have been at $4 or less for the 2 months before the effective date of this rule, and all other requirements are met for eligible purchase months, including the world price differential, DPDP can begin making purchases the first full month that DPDP is effective.

In preparation of starting to make DPDP purchased, FSA will closely monitor the margins and related information to analyze the potential need for starting DPDP purchases. If the analysis shows that DPDP would be expected to trigger, FSA will consult with FNS, then FNS will determine the types and quantities of products that will be purchased, in consultation with public or private nonprofit organizations and State and local agencies eligible to receive such products. When the list of products and other details, such as size of the packaged products is identified, FSA will analyze various factors, including the expected result on the dairy market of the various purchasing options to determine the best combination and quantity of dairy products to purchase to meet the dual goals of the program: (1) To support dairy producer margins and (2) to provide dairy products to individuals in low-income groups through public and private non-profit organizations. The process of determining the exact combination of dairy products to be purchased and the quantity to purchase will continue through the bid solicitation process to ensure the dual goals of DPDP are achieved at the least cost to taxpayers. FSA will purchase the types and quantities of products determined through this process.

Structure of This Rule

This rule specifies the regulations for MPP-Dairy in 7 CFR part 1430, subpart A, replacing the regulations for the Dairy Product Price Support Program, which is no longer authorized. It specifies the regulations for DPDP in subpart C, replacing the regulations for the 2004 Dairy Disaster Assistance Payments Program, which is also no longer authorized. As part of FSA's ongoing retrospective review efforts, this rule also removes the regulations in subpart D for the Market Loss Assistance Program and subpart E for the 2005 Dairy Disaster Assistance Payment Program, both of which are also no longer authorized.

Notice and Comment

In general, the Administrative Procedure Act (5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. Regulations to implement the provisions of Title I of the 2014 Farm Bill and the administration of Title I are exempt from the notice and comment provisions of 5 U.S.C. 553 and the Paperwork Reduction Act (44 U.S.C. chapter 35), as specified in section 1601(c)(2) of the 2014 Farm Bill.

Comments Requested on Intergenerational Transfers and Family Members Joining an Operation

The 2014 Farm Bill exempts CCC from notice and comment rulemaking under 5 U.S.C. 553 with respect to MPP-Dairy and DPDP; however, FSA would like to invite comments with respect to

the establishment of additional production history under MPP-Dairy.

Section 1401(9) of the 2014 Farm Bill and this rule define the term ''production history'' as the production history determined for a dairy operation when a participating dairy operation first registers to participate in MPP-Dairy. Section 1405(a) provides, except as provided in section 1405(b), the production history of the dairy operation is equal to the highest annual milk marketings of the dairy operation during any one of the 2011, 2012, or 2013 calendar years, with an adjustment in subsequent years to reflect any increase in national average milk production. Section 1405(b) provides that in the case of a participating dairy operation that has been in operation for less than a year, the dairy operation elect one of two methods for the Department to determine the production history of the dairy operation:

- The volume of the actual milk marketings extrapolated to a yearly amount, or
- An estimate of actual milk marketings based on the herd size relative to the national rolling average data.

The provisions in this regulation are consistent with the 2014 Farm Bill.

The 2014 Farm Bill provisions regarding MPP-Dairy and the rule do not address the establishment of additional production history for a participating dairy operation in specific instances, such as an inter-generational transfer or when a family member joins a participating dairy operation. Other statutory provisions of MPP-Dairy do suggest that Congress intended to benefit smaller dairy operations, which tend to be family owned and operated. These provisions include the establishment of lower premium rates for insured annual production of less than 4,000,000 pounds. This rule does not take into account the size and structure of the dairy operation in determining whether the operation can adjust its production history to assist small, family dairy operations, especially with intergenerational transfers of the operation. FSA invites interested parties to address whether the regulation should be amended to authorize the establishment of additional production history, and if so, whether limitations should be imposed on any increases. Specifically, FSA requests comments on the following questions; please include any data that supports your comments:

1. Does the provision in the rule regarding transfers of production history hinder intergenerational transfers of dairy operations? If so, how?

2. How would you suggest the rule be amended to accommodate intergenerational transfers or adult children who want to join their parent's dairy operation and obtain additional production history for the dairy operation?

3. If additions to production history based on intergenerational transfers or adult children joining family dairies are allowed, should there be a cap on the overall amount of production history that cannot be exceeded or a percentage or quantity limitation on the amount by which the production history could be increased per participating dairy operation under this provision? If so, what amount?

Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides generally that before rules are issued by Government agencies, the rule is required to be published in the **Federal Register**, and the required publication of a substantive rule is to be not less than 30 days before its effective date. One of the exceptions is when the agency finds good cause for not delaying the effective date. Subsection 1601(c)(2) of the 2014 Farm Bill makes this final rule exempt from notice and comment. Therefore, using the administrative procedure provisions in 5 U.S.C. 553, FSA finds that there is good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This rule allows FSA to provide adequate notice to dairy operations about the new MPP-Dairy so they will be ready to begin enrollment no later than September 1, 2014, as required by section 1403 of the 2014 Farm Bill. Therefore, to begin providing benefits to operations in a timely fashion, the MPP-Dairy regulations in 7 CFR part 1430, subpart A are effective when published in the **Federal Register**.

Section 1431 of the 2014 Farm Bill requires that DPDP be operational no later than 120 days after MPP-Dairy, but as discussed above, USDA decided to make DPDP effective at the same time as MPP-Dairy, so as not to delay needed assistance to dairy operations and low income groups. A 30 day delay in the effective date would unnecessarily delay needed assistance to dairy operations and individuals in low income groups.

Executive Orders 12866 and 13563

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, ''Regulatory Planning and Review,'' and therefore, OMB has reviewed this rule. This regulatory action is being taken to implement two programs required by the 2014 Farm Bill. A summary of the cost-benefit analysis of this rule is provided below and the full cost benefit analysis is available on regulations.gov.

Cost Benefit Analysis Summary

The current actual dairy production margin is about $12, so neither DPDP nor MPP-Dairy would have any cost in the first month. If current milk prices and cattle feed prices continue through the end of 2018, the payments to dairy producers from the government via MPP-Dairy and DPDP will be zero. Any program payments would be more than offset by MPP-Dairy premiums and fees. However, in the event of prolonged low margins, programs outlays could exceed $100 million per year.

If actual margins vary significantly from mean projections used for the 2015 President's Budget Midsession Review, DPDP is expected to trigger twice during the 2015 to 2018 period and total cost is expected to be about $400 million over the 4-year period, for an average cost of $100 million per year. That is a net cost to the government for both MPP-Dairy and DPDP, meaning the projected total payments to producers and the cost of the dairy products purchased minus the MPP-Dairy fees and premiums paid to CCC. Nearly all of the impacts estimated in this analysis are transfers between entities within society. For example, DPDP results in an average annual cost to the government of about $30 million for dairy product purchases (cost side of the transfer), which would be balanced by low income individuals receiving $30 million worth of free dairy products (benefit side of the transfer).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment

rulemaking requirements under the Administrative Procedure Act or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because the 2014 Farm Bill exempts CCC from notice and comment rulemaking under 5 USC 553 with respect to these programs and therefore, CCC is not required by any law to publish a proposed rule for public comment for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 799). FSA has determined that the provisions identified in this final rule are administrative in nature, intended to clarify the mandatory requirements of the programs, as defined in the 2014 Farm Bill, and do not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. The few discretionary features of the rules include establishing deadlines, determinations of eligibility and prices, and purchase procedures, and have been selected largely based on pre-existing USDA programs. While these dairy programs are new, their creation is mandated by the 2014 Farm Bill, and are therefore not subject to review under NEPA. The few discretionary provisions left for FSA to determine were all purely administrative and would not alter any environmental impacts resulting from implementing the mandatory programs. Therefore, as this rule presents administrative clarifications only, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSA has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by the 2014 Farm Bill.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, or the private sector. Agencies generally need to prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of 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 UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

This rule is a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996, (Pub. L. 104–121, SBREFA). SBREFA normally requires that an agency delay the effective date of a major rule for 60 days from the date of publication to allow for Congressional review. Section 808 of SBREFA allows an agency to make a major regulation effective immediately if the agency finds there is good cause to do so. Section 1601(c)(3) of the 2014 Farm Bill provides that the authority in section 808 of SBREFA be used in implementing the changes required by Title I of the 2014 Farm Bill, such as for the changes being made by this rule. Consistent with section 1601(c)(3) of the 2014 Farm Bill, FSA therefore finds that it would be contrary to the public interest to delay the effective date of this rule, because it would delay implementation MPP-Dairy as required in the 2014 Farm Bill. The regulation needs to be effective to provide adequate time for producers to be ready to begin the sign-up process in a timely fashion to allow coverage to begin by September 1, 2014. Therefore, the rule is effective when published in the **Federal Register**.

Federal Assistance Programs

The title and number of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic

Assistance to which this rule applies are:

10.116—Margin Protection Program-Dairy
10.115—Dairy Product Donation Program

Paperwork Reduction Act of 1995

The regulations in this rule are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in subsection 1601(c)(2)(B) of the 2014 Farm Bill, which provides that these regulations be promulgated and administered without regard to the Paperwork Reduction Act.

E-Government Act Compliance

FSA and CCC are committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 430

Dairy products, Fraud, Penalties, Price support programs, Reporting and recordkeeping requirements.

For the reasons discussed above, the regulations at 7 CFR part 1430 are amended as follows:

PART 1430—DAIRY PRODUCTS

■ 1. The authority for part 1430 is revised to read as follows:

Authority: 7 U.S.C. 8773, 9051–9060, and 9071 and 15 U.S.C. 714b and 714c.

■ 2. Revise 7 CFR part 1430, subpart A to read as follows:

Subpart A—Margin Protection Program for Dairy Producers

Sec.

1430.100 Purpose.
1430.101 Administration.
1430.102 Definitions.
1430.103 Eligible dairy operations.
1430.104 Time and method of registration and annual election.
1430.105 Establishment and transfer of production history for a participating dairy operation.
1430.106 Administrative fees.
1430.107 Buy-up coverage.
1430.108 Margin protection payments.
1430.109 Effect of failure to pay administrative fees or premiums.
1430.110 Calculation of average feed cost and actual dairy production margins.
1430.111 Relation to RMA's LGM-Dairy Program.
1430.112 Multi-year contract.
1430.113 Contract modifications.
1430.114 Reconstitutions.
1430.115 Offsets and withholdings.
1430.116 Assignments.
1430.117 Appeals.
1430.118 Misrepresentation and scheme or device.
1430.119 Estates, trusts, and minors.
1430.120 Death, incompetency, or disappearance.
1430.121 Maintenance and inspection of records.
1430.122 Refunds; joint and several liability.
1430.123 Violations of highly erodible and wetland conservation provisions.
1430.124 Violations regarding controlled substances.

Subpart A—Margin Protection Program for Dairy Producers

§ 1430.100 Purpose.

The regulations in this subpart apply for the Margin Protection Program for Dairy (MPP-Dairy), which is authorized by sections 1401 through 1410 of the Agricultural Act of 2014 (Pub. L. 113–79, 7 U.S.C. 9051–9060). MPP-Dairy is intended to provide eligible dairy producers risk protection against low margins resulting from a combination of low milk prices and high feed costs.

§ 1430.101 Administration.

(a) MPP-Dairy is administered under the general supervision of the Executive Vice President, CCC, or a designee, and will be carried out by Farm Service Agency (FSA) State and county committees and employees.

(b) State and county committees and their employees may not waive or modify any requirement of this subpart.

(c) The State committee will take any action required when not taken by the county committee, require correction of actions not in compliance, or require the withholding of any action that is not in compliance with this subpart.

(d) The Executive Vice President, CCC, or a designee, may determine any question arising under MPP-Dairy or reverse or modify any decision of the State or county committee.

(e) The Deputy Administrator, Farm Programs, FSA, may waive or modify MPP-Dairy requirements not statutorily required when failure to meet such requirements does not adversely affect the operation of MPP-Dairy.

(f) A representative of CCC will execute a contract for registration in MPP-Dairy and related documents under the terms and conditions determined and announced by the Deputy Administrator on behalf of CCC. Any document not under such terms and conditions, including any execution before the date authorized by CCC, will be null and void.

§ 1430.102 Definitions.

The definitions in this section are applicable for the purposes of administering MPP-Dairy established by this subpart.

Actual dairy production margin means the difference between the all-milk price and the average feed cost, as calculated under § 1430.110. If the calculation would produce a negative number the margin will be considered to be zero.

Administrative county office means the county office designated to make determinations, handle official records, and issue payments for the producer as specified in 7 CFR part 718.

All-milk price means the national average price received, per hundredweight of milk, by dairy operations for all milk sold to dairy plants and milk dealers in the United States, as determined by the Secretary.

AMS means the Agricultural Marketing Service of the USDA.

Annual election period for MPP-Dairy means the period, each calendar year, established by the Deputy Administrator, for a dairy operation to register initially to participate in MPP-Dairy, pay associated administrative fees, and applicable premiums, or, if already registered as a participating dairy operation, to make annual coverage elections for an applicable calendar year.

Average feed cost means the national average cost of feed used by a dairy operation to produce a hundredweight of milk, as determined under § 1430.110(b).

Buy up coverage means margin protection coverage for a margin protection level above $4 per hundredweight of milk.

Catastrophic level coverage means $4 per cwt margin protection coverage and a coverage percentage of 90 percent, with no premium assessed.

CCC means the Commodity Credit Corporation of the U.S. Department of Agriculture.

Commercially marketed means selling whole milk to either the market to which the dairy operation normally delivers and receives monetary compensation or other similar markets.

Consecutive 2-month period means a 2-month period consisting, respectively, of the months of January and February; March and April; May and June; July and August; September and October; or November and December.

Contract means the terms and conditions to register for the MPP-Dairy as executed on a form prescribed by CCC and required to be completed by the dairy operation and accepted by CCC, including any contract modifications made in an annual election period before coverage for the applicable calendar year commences.

County committee means the FSA county committee.

County office means the FSA office responsible for administering FSA programs for farms located in a specific area in a State.

Covered production history is equal to the production history of the operation multiplied by the coverage percentage selected by the participating dairy operation.

Dairy operation means a dairy operation as defined pursuant to the criteria and procedures under the Milk Income Loss Contract (MILC) Program or any dairy facility that was part of a single dairy operation that participated in the MILC Program as of February 7, 2014. Operations that are determined to be ''new operations'' under this subpart, will be subject to the ''affiliation'' test under § 1430.103(e) if the operation elects to participate in MPP-Dairy separately. A single dairy operation operated by more than one dairy producer will be treated as a single dairy operation for purposes of participating in MPP-Dairy and can only submit one application. All dairy operations under this part shall commercially market milk produced from cows as a single unit located in the United States in which each dairy producer:

(1) Has risk in the production of milk in the dairy operation; and

(2) Makes contributions, including land, labor, management, equipment, or capital, to the dairy operation at least commensurate to the producers' share of the operation.

Deputy Administrator means the Deputy Administrator for Farm Programs, or designee.

Farm Service Agency or FSA means the Farm Service Agency of the USDA.

Hundredweight or cwt means 100 pounds.

Milk Income Loss Contract Program or MILC means the program established under section 1506 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8773) and the regulations found in subpart B of this part.

Milk marketing means a sale of milk for which there is a verifiable production record for milk commercially marketed.

NASS means the National Agricultural Statistics Service of the USDA.

New operation means a dairy operation that did not commercially market milk at least 12 full months as of February 7, 2014.

Participating dairy operation means a dairy operation that registers to participate in MPP-Dairy under this part.

Producer means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen of, or legal resident alien in the United States, and who directly or indirectly, shares in the risk of producing milk, makes contributions including land, labor, management, equipment, or capital to the dairy operation at least commensurate to the producers' share of the operation, to the dairy operation of the individual or entity, as determined by the Deputy Administrator.

Production history means the production history determined for a participating dairy operation when the participating dairy operation registers in MPP-Dairy.

RMA means the Risk Management Agency of the USDA.

Secretary means the Secretary of Agriculture.

United States means the 50 States of the United States of America, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and any other territory or possession of the United States.

USDA means the United States Department of Agriculture.

Verifiable production records mean evidence that is used to substantiate the amount of production commercially marketed and that can be verified by CCC through an independent source.

§ 1430.103 Eligible dairy operations.

(a) The eligibility requirements for a dairy operation to register in MPP-Dairy and receive payments under this subpart, are to:

(1) Produce milk from cows in the United States that is marketed commercially at the time of each annual election in MPP-Dairy;

(2) Submit accurate and complete information as required by the this subpart;

(3) Provide proof of milk production marketed commercially by all persons in the dairy operation to establish production history;

(4) Not participate in the Livestock Gross Margin for Dairy (LGM-Dairy) Program administered by the USDA Risk Management Agency (RMA) under the Federal Crop Insurance Act (7 U.S.C. 1501–1536), except to the extent permitted by this subpart, provided that under no circumstance may the operation receive coverage for the same period in MPP-Dairy for which payments have been received or earned under LGM-Dairy; and

(5) Pay required administrative fees for participation in MPP-Dairy as specified in this subpart and any premiums, if applicable, as specified in this subpart.

(b) A person or entity covered by § 1400.401 of this chapter (hereafter ''foreign person'') must meet the eligibility requirements contained in that section to receive payments under this part. A dairy operation with ineligible foreign persons as members will have any payment reduced by the proportional share of such members.

(c) Federal agencies and States, including all agencies and political subdivisions of a State, are not eligible for payments under this subpart.

(d) As specified in § 1430.104, each dairy operation is required to submit a separate registration to be eligible for MPP-Dairy coverage and payment. A producer who owns more than one eligible dairy operation may participate separately for each dairy operation; each eligible dairy operation must be registered separately, subject to the affiliation test for new operations.

(e) A new dairy operation will be treated as an affiliated dairy operation and not be treated as a separate dairy operation under MPP-Dairy if producers that collectively own more than 50 percent of the new dairy operation also collectively own more than 50 percent interest in another dairy operation registered in MPP-Dairy.

§ 1430.104 Time and method of registration and annual election.

(a) A dairy operation may register to participate in MPP-Dairy by submitting a contract prescribed by CCC. Dairy operations may obtain a blank contract in person, by mail, or by facsimile from any county office. In addition, dairy operations may download a copy of the forms at *http://www.sc.egov.usda.gov.*

(b) Dairy operation shall submit completed contracts and any other supporting documentation during the annual election period established by the Deputy Administrator, to the administrative county office serving the dairy operation.

(1) A new dairy operation that has been established after the most recent election period is required to submit a contract within the first 90 calendar days from the date on of which the dairy operation first commercially markets milk and may elect coverage that begins the next consecutive 2-month period following the approval date of the registration and coverage election; or

(2) A new dairy operation that does not meet the 90 day requirement of

paragraph (b)(1) of this section cannot enroll until the next annual election period for coverage for the following calendar year.

(c) Registration requests and coverage elections are to be submitted in time to be received at FSA by the close of business on the last day of the annual election period established by the Deputy Administrator.

(1) The applicable year of coverage for contracts arising from accepted registrations in the annual election period will be the following calendar year, except for 2014, where the election and coverage year will be the same.

(2) Registration requests and coverage elections submitted after the applicable allowed time for submission will not be considered.

(3) During an annual election period, participating dairy operations may change coverage elections for the following calendar year.

(d) To receive margin protection coverage, separate registrations are required for each separately constituted dairy operation. If a dairy producer operates more than one separate and distinct operation, the producer registers each operation for each operation to be eligible for coverage.

(e) A participating dairy operation must elect, during the applicable annual election period and by using the form prescribed by CCC, the coverage level threshold and coverage percentages for that participating dairy operation for the applicable calendar year.

(1) Once the initial completed registration is submitted and approved by CCC, it cannot be cancelled by the participating dairy operation through December 31, 2018; however, each calendar year subsequent to the initial registration of the participating dairy operation, it may elect to change the coverage level threshold and coverage percentage, on a form prescribed by CCC, during the election period for the applicable subsequent calendar year. For dairy operations that want to continue coverage levels established in the prior calendar year, the Deputy Administrator will establish a procedure to allow such coverage levels to continue that will include the requirement of a timely payment of administrative fees and any premiums, if applicable.

(2) If the operation fails to file an update of its election during the annual election period, the coverage level will be reduced to the catastrophic level coverage, but such coverage will only be provided if the participating dairy operation pays the annual administrative fee for the relevant calendar year.

(3) All producers in the participating dairy operation must agree to the coverage level threshold and coverage percentage elected by the dairy operation.

(f) By registering to participate or receive payment under MPP-Dairy, producers in the participating dairy operation certify to the accuracy and truthfulness of the information in their applications and supporting documentation.

(1) All producers in a participating dairy operation must sign and certify all submissions made under MPP-Dairy that relate to the level of coverage.

(2) All information provided is subject to verification. FSA may require a dairy operation to provide documentation to support all verifiable records. Furnishing the information is voluntary; however, without it MPP-Dairy benefits will not be approved. Providing a false certification to the Federal Government may be punishable by imprisonment, fines, other penalties, or sanctions.

(g) At the time the completed contract is submitted to FSA for the first year in which the dairy operation is to participate in MPP-Dairy, the dairy operation must also submit a separate form, as specified by CCC, to establish the production history for the dairy operation.

§ 1430.105 Establishment and transfer of production history for a participating dairy operation.

(a) A participating dairy operation must provide all information required by FSA to establish the production history of the participating dairy operation for purposes of participating in MPP-Dairy. Except as provided in paragraph (b) of this section relating to new dairy operations, FSA will establish the production history for a dairy operation for margin protection as the highest annual milk marketings of the participating dairy operation during any one of the 2011, 2012, or 2013 calendar years.

(1) All producers in the participating dairy operation are required to provide adequate proof of the dairy operation's quantity of milk commercially marketed, to establish the production history for the dairy operation.

(2) All information provided is subject to verification, spot check and audit by FSA. If the dairy operation does not provide to the satisfaction of FSA documentation requested to substantiate the production history of the highest annual milk marketings for the participating dairy operation, then, the registration will not be approved.

(b) A participating dairy operation that did not produce and commercially market milk at least 12 full months as of February 7, 2014, will be considered a new dairy operation. To establish the production history for such a new dairy operation the new dairy operation is required to elect one of the following methods:

(1) The volume of the actual milk marketings for the months the dairy operation has been in operation, extrapolated to a yearly amount based on a national seasonally adjusted index, as determined by the Deputy Administrator, to account for differences in milk production during the year; or

(2) An estimate of the actual milk marketings of the dairy operation based on the herd size of the dairy operation relative to the national rolling herd average data published by the Secretary.

(c) If FSA determines that the new enterprise was formed for the purpose of circumventing MPP-Dairy provisions, including, but not limited to, reconstituting a dairy operation to receive additional benefits, or establishing new production history, that enterprise will not be considered a new dairy operation for the purpose of establishing production history.

(d) Once the production history of a participating dairy operation is established under paragraphs (a) or (b) of this section, the production history will be adjusted upward by FSA only to reflect any increase in the national average milk production, as determined by the Deputy Administrator.

(e) The production history may be transferred from one dairy facility to another:

(1) Producers of a dairy operation may relocate the dairy operation to another location and the production history of the original operation may be transferred to the new location and may be added to production history at the new location that has not been transferred;

(2) Producers of a dairy operation may transfer ownership of a dairy operation with its associated production history, but if the producers start a new operation such new operation may only be eligible for new production history if the new operation is otherwise not affiliated with participants in MPP-Dairy as described in § 1430.103(e); or

(3) Producers of more than one dairy operation that separately participate in MPP-Dairy may transfer the production histories of these dairy operations into a previously unregistered dairy operation.

(f) If CCC waives the obligation, under MPP-Dairy of a participating dairy operation due to death or retirement of the producer or of the permanent

dissolution of the dairy operation or under other circumstances as determined by the Deputy Administrator, FSA may reestablish the production history provided that the production history has not been transferred.

§ 1430.106 Administrative fees.

(a) Dairy operations must pay an initial administrative fee to FSA in the amount of $100 to participate in MPP-Dairy at the time of initial registration to participate. Each approved participating dairy operation must also pay a $100 administrative fee each year through December 31, 2018. Annual administrative fees are due and payable to FSA through the administrative county FSA office no later than the close of business on the last day of the annual election period established by the Deputy Administrator for each applicable calendar year of margin protection coverage under MPP-Dairy. The administrative fee paid is non-refundable.

(b) The required annual administrative fee is per dairy operation. Therefore, multiple dairy producers in a single unit participating dairy operation are required to pay only one annual administrative fee for the participating dairy operation. Conversely, in the case of a dairy producer that operates more than one dairy operation, each participating dairy operation is required to pay a separate administrative fee annually.

(c) Failure to pay the administrative fee timely will result in loss of margin protection coverage for the applicable calendar year. The payment will still be due, as provided in § 1430.109.

§ 1430.107 Buy-up coverage.

(a) For purposes of receiving MPP-Dairy coverage, a participating dairy operation may annually elect during an annual election period the following for the succeeding calendar year:

(1) A coverage level threshold for margins that, per cwt, is equal to one of the following: $4, $4.50, $5, $5.50, $6, $6.50, $7, $7.50, or $8; and

(2) A percentage of coverage for the production history from 25 percent to 90 percent, in 5-percent increments.

(b) In the absence of any such election, the applicable coverage level provided, with no premium due, is catastrophic level coverage.

(c) A participating dairy operation that elects margin protection coverage above $4 is required to pay an annual premium based on coverage level and covered production history in addition to the administrative fee. Tier 1 applies to covered production history up to and including 4 million pounds; Tier 2 applies to covered production history above 4 million pounds.

(d) The premium per cwt of milk, based on the elected percentage of coverage of production history is specified in the following tables.

TABLE 1 TO § 1430.107(D)

Coverage level (margin)	Tier 1 Premium per cwt in 2014 and 2015 (for the covered [1] production history that is 4 million pounds or less) [2]	Tier 2 Premium per cwt, all years (for the part of covered [1] production history over 4 million pounds)
$4.00	None	None
$4.50	$0.008	$0.020
$5.00	0.019	0.040
$5.50	0.030	0.100
$6.00	0.041	0.155
$6.50	0.068	0.290
$7.00	0.163	0.830
$7.50	0.225	1.060
$8.00	0.475	1.360

[1] The catastrophic coverage level provided at the $4 margin is 90 percent.

TABLE 2 TO § 1430.107(D)

Coverage level (margin)	Tier 1 Premium per cwt after 2015 (for the covered [1] production history that is 4 million pounds or less)	Tier 2 Premium per cwt, all years (for the part of covered [1] production history over 4 million pounds)
$4.00	None	None
$4.50	$0.010	$0.020
$5.00	0.025	0.040
$5.50	0.040	0.100
$6.00	0.055	0.155
$6.50	0.090	0.290
$7.00	0.217	0.830
$7.50	0.300	1.060
$8.00	0.475	1.360

[1] The catastrophic coverage level provided at the $4 margin is 90 percent.

(e) The annual premium due for a participating dairy operation is calculated by multiplying:

(1) The covered production history; and

(2) The premium per cwt of milk specified in paragraph (d) of this section

for the coverage level elected by the dairy operation.

(f) In the case of a new dairy operation that first registers to participate in MPP-Dairy for a calendar year after the start of the calendar year, the participating dairy operation is required to pay a pro-rated premium for that calendar year based on the portion of the calendar year for which the participating dairy operation is eligible, and for which it purchases the coverage.

(g) The total annual premium for a participating dairy operation calculated as provided in paragraphs (d) and (e) of this section for calendar year 2014, is due in full at the time the contract is submitted to FSA during the open election period applicable for calendar year 2014, as determined by the Deputy Administrator. For subsequent calendar years, a participating dairy operation is required to pay the annual premium calculated as specified in paragraphs (d) and (e) of this section for the applicable calendar year, unless otherwise determined by the Deputy Administrator, according to either of the following options:

(1) In total at time of submission of coverage election to FSA; or

(2) In installments, with a minimum of 50 percent at the time of submission of coverage election to FSA and the remaining balance due no later than June 1 of the applicable calendar year of coverage.

(h) If a minimum of 50 percent of the premium is not paid by the end of an open election period for an applicable calendar year of coverage, the participating dairy operation will only be covered at catastrophic level coverage, except that the participating dairy operation will have no coverage whatsoever if the administrative fee for the applicable calendar year of coverage has not been timely paid.

(i) Annual premium balances due to FSA from a participating dairy operation for a calendar year of coverage must be paid in full no later than June 1 of the applicable calendar year. Premium balances due, but not in arrears, prior to June 1 will be deducted from any MPP-Dairy payment(s) made to the participating dairy operation during the applicable calendar year of coverage.

(j) A participating dairy operation with an unpaid premium balance after June 1 for a calendar year of coverage will lose eligibility for coverage as provided in § 1430.109.

(k) The Deputy Administrator may waive the obligation to pay the premium, or refund the premium paid, of a participating dairy operation for a calendar year, in cases that include, but are not limited to, as determined by the Deputy Administrator, death, retirement, permanent dissolution of a participating dairy operation, or other circumstances determined by the Deputy Administrator.

(l) MPP-Dairy administrative fees and premiums are required to be paid by a negotiable instrument satisfactory in form to the Deputy Administrator and made payable to FSA and either mailed to or provided in person to the administrative county office or other location designated by FSA.

§ 1430.108 Margin protection payments.

(a) An MPP-Dairy payment will be made to a participating dairy operation for any consecutive 2-month period when the average actual dairy production margin for the consecutive 2-month period falls below the coverage level threshold in effect for the participating dairy operation.

(b) The MPP-Dairy payment to an eligible participating dairy operation relative to the qualifying 2-month period will equal the product obtained by multiplying:

(1) The amount by which the coverage level in effect for the participating dairy operation exceeds the average actual dairy production margin for the applicable 2-month period;

(2) The coverage percentage in effect for the participating dairy operation; and

(3) The production history of the participating dairy operation, divided by 6.

(c) For any coverage period, a participating dairy operation can for all of its production select only one coverage level threshold between $4 and $8 (in 50 cent increments) per hundredweight under § 1430.107(a)(1); and only one percentage for its production history between 25 percent and 90 percent (in 5 percent increments) under § 1430.107(a)(2).

§ 1430.109 Effect of failure to pay administrative fees or premiums.

(a) A participating dairy operation that fails to pay a required administrative fee or premium payment due upon application to MPP-Dairy or for a calendar year of coverage:

(1) Remains legally obligated to pay such administrative fee or premium, as applicable; and

(2) Upon such failure to pay when due, loses coverage under MPP-Dairy until such administrative fee or premium is paid in full, and once paid, coverage will begin with the next consecutive 2-month period.

(b) CCC may take such actions as necessary to collect unpaid administrative fees and premium payments.

§ 1430.110 Calculation of average feed cost and actual dairy production margins.

(a) Payments are made to a participating dairy operation as specified in this subpart only when, for a consecutive 2-month period, the calculated average actual dairy production margin is below the coverage level in effect for the participating dairy operation. That margin will be calculated on a national basis and is the amount by which for the relevant consecutive 2-month period, the all milk price exceeds the average feed cost for dairy producers. All calculations will be made on a per cwt basis. The average actual dairy production margin calculation applies to all participating dairy operations. The calculations are not made on an operation by operation basis or on their marketings.

(b) For calculating the national average feed cost that dairy operations use to produce a cwt of milk, the following three items will be added together:

(1) The product determined by multiplying 1.0728 by the price of corn per bushel;

(2) The product determined by multiplying 0.00735 by the price of soybean meal per ton; and

(3) The product determined by multiplying 0.0137 by the price of alfalfa hay per ton.

(c) To make those feed calculations, the Deputy Administrator on behalf of CCC will use the following full month data:

(1) For corn, the full month price received by farmers during the month in the United States as reported in the monthly Agricultural Prices report by USDA NASS;

(2) For soybean meal, the Central Illinois soybean meal price delivered by rail as reported in the USDA AMS Market News-Monthly; and

(3) For alfalfa hay, the full month price received during the month by farmers in the United States for alfalfa hay as reported in the monthly Agricultural Prices report by USDA NASS.

(d) The national average feed cost data for corn, soybean meal, and alfalfa hay used in the calculation of the national average feed cost to determine the actual dairy production margin for the relevant period, will be the data reported in the publication the following month. (For example, preliminary May prices for corn and soybean meal were reported in the May Agricultural Prices publication but full month May prices will be

available in the June publication, and those will be the prices used).

(e) The actual dairy production margin for each consecutive 2-month period, will be calculated by subtracting:

(1) The average feed cost for that consecutive 2-month period, determined under paragraph (b) of this section; from

(2) The all-milk price for that consecutive 2-month period.

§ 1430.111 Relation to RMA's LGM-Dairy Program.

(a) In general, a producer may participate in either MPP-Dairy through a dairy operation or the LGM-Dairy program operated by RMA, but not both. However, since MPP-Dairy is first being made available after potential applicants may have already applied for 2014 or 2015 coverage under LGM-Dairy, for the annual election period for MPP-Dairy established for the 2014 and 2015 calendar year coverage only, a producer with coverage under LGM-Dairy that wishes to participate through their dairy operation in MPP-Dairy, is required to:

(1) Register the dairy operation to participate in MPP-Dairy during the annual election period established for calendar year 2014 and 2015, as established by the Deputy Administrator;

(2) Agree not to extend or obtain new LGM-Dairy coverage;

(3) Acknowledge in writing at the time of registration that no MPP-Dairy payment will be made to the dairy operation for any month included in any period for which any producer in the dairy operation has LGM-Dairy coverage; and

(4) Pay applicable administrative fees in the same manner as other participating dairy operations by paying fees and premiums that may be prorated by the Deputy Administrator to reflect the limited period of coverage.

(b) Margin protection coverage under MPP-Dairy will not become effective until after the target month of marketings under LGM-Dairy has ended by natural expiration of the LGM-Dairy agreement or by an RMA-allowed cancellation. Any applicable premium for the participating dairy operation will be prorated based on the remaining months of the applicable calendar year of coverage following the month the LGM-Dairy target month has ended.

(c) MPP-Dairy payment may only trigger after the target month of marketings under LGM-Dairy has ended.

(d) A participating dairy operation will be required to provide proof, to the satisfaction of FSA, of the cancellation or expiration of the LGM-Dairy policy based on the final month of target marketings under the LGM-Dairy policy.

§ 1430.112 Multi-year contract.

(a) Participating dairy operations enrolled in MPP-Dairy are enrolled until December 31, 2018. As such, a participating dairy operation is obligated to pay initial and annual administrative fees and applicable premiums each succeeding calendar year following the date the contract is first entered into through December 31, 2018.

(b) Failure to pay administrative fees and premiums will result in the loss of coverage, and the participating dairy operation remains obligated to pay such administrative fees and premiums as provided in § 1430.108.

(c) If a participating dairy operation goes out of business as described in § 1430.107(k) before December 31, 2018, the contract will be terminated immediately, except with respect to payments accrued to the benefit of the participating dairy operation under this subpart before such termination.

§ 1430.113 Contract modifications.

(a) Producers in a participating dairy operation must notify FSA immediately of any changes that may affect their participation in MPP-Dairy under this subpart. Changes include, but are not limited to death of a producer on the contract, producer joining the operation, producer exiting the operation, relocation of the dairy operation, transfer of shares by sale or other transfer action, or dairy operation reconstitutions as provided in § 1430.114.

(b) Payment of any outstanding premium or administrative fee for a participating dairy operation must be paid in full before a transfer of shares by sale or any other change in producers on the contract originally submitted to FSA may take effect. Otherwise, producer changes will not be recognized until the following annual election period, and only if at that time all associated premiums and administrative fees from any previous calendar year of coverage have been paid in full.

§ 1430.114 Reconstitutions.

(a) A participating dairy operation under this subpart may reorganize or restructure itself in such a way that the constitution or makeup of its operation is reconstituted in another organization framework. However, any participating dairy operation that reorganizes or restructures after enrolling is subject to a review by FSA to determine if the operation was reorganized or restructured for the sole purpose of establishing an alternative production history for a participating dairy operation or was reorganized or restructured to otherwise circumvent any MPP-Dairy provision under this subpart (including the tier system for premiums) or otherwise to prevent the accomplishment of the purpose of the program.

(b) A participating dairy operation that FSA determines has reorganized solely to establish a new production history or to circumvent the determination of applicable fees or premiums based on an established production history determined under this subpart will be considered to have failed to meet MPP-Dairy requirements and, in addition to other sanctions or penalties that may apply, will not be eligible for MPP-Dairy payments.

(c) Under no circumstance, except as approved by the Deputy Administrator or provided for in these regulations, will the reconstitution or restructure of a participating dairy operation change the determined production history for the operation. The Deputy Administrator may, however, adjust the production history of a participating dairy operation if there is a calculation error or if erroneous information has been supplied by or on behalf of the participating dairy operation.

§ 1430.115 Offsets and withholdings.

FSA may offset or withhold any amount due FSA under this subpart under the provisions of part 1403 of this chapter or any successor regulations, or any other authorities that may allow for collection action of that sort.

§ 1430.116 Assignments.

Any producer may assign a payment to be made under this subpart in accordance with part 1404 of this chapter or successor regulations as designated by the Secretary or as allowed by the Deputy Administrator in writing.

§ 1430.117 Appeals.

Any producer who is dissatisfied with a determination made pursuant to this subpart may request reconsideration or appeal of such determination under parts 11 or 780 of this title.

§ 1430.118 Misrepresentation and scheme or device.

(a) In addition to other penalties, sanctions or remedies as may apply, all or any part of a payment otherwise due a person or legal entity on all participating dairy operations in which the person or legal entity has an interest may be withheld or be required to be refunded if the person or legal entity fails to comply with the provisions of

this subpart or adopts or participates in adopting a scheme or device designed to evade this subpart, or that has the effect of evading this part. Such acts may include, but are not limited to:

(1) Concealing information that affects an registration or coverage election;

(2) Submitting false or erroneous information; or

(3) Creating a business arrangement using rental agreements or other arrangements to conceal the interest of a person or legal entity in a dairy operation for the purpose of obtaining MPP-Dairy payments the individual or legal entity would otherwise not be eligible to receive. Indicators of such business arrangement include, but are not limited to the following:

(i) No milk is produced and commercially marketed by a participating dairy operation;

(ii) The participating dairy operation has no appreciable assets;

(iii) The only source of capital for the dairy operation is the MPP-Dairy payments; or

(iv) The represented dairy operation exists mainly for the receipt of MPP-Dairy payments.

(b) If the Deputy Administrator determines that a person or legal entity has adopted a scheme or device to evade, or that has the purpose of evading, the provisions of this subpart, such person or legal entity will be ineligible to receive MPP-Dairy payments in the year such scheme or device was adopted and the succeeding year.

(c) A person or legal entity that perpetuates a fraud, commits fraud, or participates in equally serious actions for the benefit of the person or legal entity, or the benefit of any other person or legal entity, in violation of the requirements of this subpart will be subject to a 5-year denial of all program benefits. Such other equally serious actions may include, but are not limited to:

(1) Knowingly engaging in, or aiding in the creation of a fraudulent document or statement;

(2) Failing to disclose material information relevant to the administration of the provisions of this subpart, or

(3) Engaging in any other actions of a person or legal entity determined by the Deputy Administrator to be designed, or intended to, circumvent the provisions of this subpart.

(d) Program payments and benefits will be denied on pro-rata basis:

(1) In accordance with the interest held by the person or legal entity in any other legal entity or joint operations; and

(2) To any person or legal entity that is a cash rent tenant on land owned or under control of a person or legal entity for which a determination of this section has been made.

§ 1430.119 Estates, trusts, and minors.

(a) MPP-Dairy documents executed by producers legally authorized to represent estates or trusts will be accepted only if such producers furnish evidence of the authority to execute such documents.

(b) A minor who is otherwise eligible for benefits under this subpart is also required to:

(1) Establish that the right of majority has been conferred on the minor by court proceedings or by law;

(2) Show that a guardian has been appointed to manage the minor's property and the applicable MPP-Dairy documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1430.120 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a producer that is eligible to receive benefits under this subpart, such persons as are specified in part 707 of this title may receive such benefits, as determined appropriate by FSA.

§ 1430.121 Maintenance and inspection of records.

(a) Participating dairy operations are required to maintain accurate records and accounts that will document that they meet all eligibility requirements specified in this subpart, as may be requested by CCC or FSA. Such records and accounts are required to be retained for 3 years after the date of MPP-Dairy payments to the participating dairy operation. Destruction of the records 3 years after the date of payment will be at the risk of the party undertaking the destruction.

(b) A participating dairy operation is required to allow authorized representatives of CCC, the Secretary, or the Comptroller General of the United States to have access to the premises of the dairy operation in order to inspect the herd of cattle, examine, and make copies of the books, records, and accounts, and other written data as specified in paragraph (a) of this section.

(c) Any producer or dairy operation that does not comply with the provisions of paragraphs (a) or (b) of this section, or that otherwise receives a payment for which it is not eligible, is liable for that payment and is required to repay it to FSA, with interest to run from the date of disbursement.

§ 1430.122 Refunds; joint and several liability.

(a) Any legal entity, including joint operations, joint ventures and partnerships, and any member of a legal entity determined to have knowingly participated in a scheme or device, or other such equally serious actions to evade, or that has the purpose of evading the provisions of this part, will be jointly and severally liable for any amounts determined to be payable as the result of the scheme or device, or other such equally serious actions, including amounts necessary to recover the payments.

(b) Any person or legal entity that cooperates in the enforcement of the provisions of this part may be partially or fully released from liability, as determined by the Executive Vice President, CCC.

(c) The provisions of this section will be applicable in addition to any liability that arises under a criminal or civil statute, regulation, or provision of law.

§ 1430.123 Violations of highly erodible and wetland conservation provisions.

The provisions of part 12 of this title apply to this part.

§ 1430.124 Violations regarding controlled substances.

The provisions of § 718.6 of this title apply to this part.

■ 3. Revise 7 CFR part 1430, subpart C to read as follows:

Subpart C—Dairy Product Donation Program

Sec.
1430.300 Administration, purpose, and funding.
1430.301 Definitions.
1430.302 Commencement and termination of DPDP purchases.
1430.303 DPDP purchases.
1430.304 Distribution of DPDP purchased products.

Subpart C—Dairy Product Donation Program

§ 1430.300 Administration, purpose, and funding.

(a) The regulations in this subpart apply for the Dairy Product Donation Program (DPDP). DPDP is authorized by section 1431 of the Agricultural Act of 2014 (Pub. L. 113–79, 7 U.S.C. 9071).

(b) DPDP is designed to address low dairy producer margins, through periodic purchases of dairy products, as specified in this subpart. Dairy products purchased for DPDP will be used to

provide nutritional assistance to members of low-income groups.

(c) The purchase aspect of DPDP will be operated for the Secretary of Agriculture and for the Commodity Credit Corporation by the Farm Service Agency (FSA) under the direction of the FSA's Deputy Administrator for Commodity Operations. Purchases are subject to the terms and conditions in FSA's purchase announcements. The distribution of products purchased through DPDP will be operated for the Secretary under the direction of the Food and Nutrition Service.

§ 1430.301 Definitions.

For purposes of this subpart, the following terms and acronyms apply:

2014 Farm Bill means the Agricultural Act of 2014 (Pub. L. No. 113–79).

Actual dairy production margin is as defined in subpart A of this part.

AMS means the Agricultural Marketing Service of the USDA.

CCC means the Commodity Credit Corporation.

Deputy Administrator means the Farm Service Agency Deputy Administrator for Commodity Operations.

Distribution means the provision of products purchased through DPDP to low-income groups through FNS food distribution programs in accordance with those program regulations and 7 CFR part 250.

DPDP means the Dairy Product Donation Program.

FNS means the Food and Nutrition Service of the USDA.

FSA means the Farm Service Agency of the USDA.

FSA Administrator means Administrator of the Farm Service Agency, USDA.

Hundredweight or cwt means 100 pounds.

MPP-Dairy means the Margin Protection Program for Dairy provided for in subpart A of this part.

NDM means non-fat dry milk.

Recipient agencies means agencies or organizations that are eligible to receive donated product for distribution under this subpart.

USDA means the United States Department of Agriculture.

§ 1430.302 Commencement and termination of DPDP purchases.

(a) DPDP purchases commence only if approved by the FSA Administrator under the provisions of this subpart. The FSA Administrator will approve DPDP purchases only if the actual dairy production margin has been $4 or less per cwt for each of the preceding 2 months. The actual dairy production margin will be calculated as specified in § 1430.110. The following chart shows an example of the timing for the determination of DPDP purchases.

DPDP PURCHASE DETERMINATION EXAMPLE BASED ON DAIRY PRODUCTION MARGINS AND 3-MONTH MAXIMUM FOR PURCHASES [1]

2 Consecutive months	Calculate margin for 2 consecutive months [2]	If both margins below $4 per cwt in the 2 consecutive months	3-Month maximum consideration	If either margin above $4 per cwt in the 2 consecutive months
January and February.	March	Dairy product purchases [3] begin in April.	1st month of purchases	No purchases.
February and March.	April	Dairy product purchases [3] begin in May.	2nd consecutive month of purchases	No purchases.
March and April	May	Dairy product purchases [3] begin in June.	3rd consecutive month of purchases	No purchases.
April and May	June [4]	No purchases; terminated after 3 consecutive months.	3-month maximum reached (1st month off).	No purchases.
May and June	July	No purchases; terminated after 3 consecutive months.	3-month maximum reached (2nd month off).	No purchases.
June and July	August	No purchases; terminated after 3 consecutive months.	3-month maximum reached (3rd month off).	No purchases.
July and August	September	Dairy product purchases [3] begin in October.	1st month of purchases	No purchases.
August and September.	October	Dairy product purchases [3] begin in November.	2nd consecutive month of purchases	No purchases.
September and October.	November	Dairy product purchases [3] begin in December.	3rd consecutive month of purchases	No purchases.
October and November.	December	No purchases; terminated after 3 consecutive months.	3-month maximum reached (1st month off).	No purchases.
November and December.	January	No purchases; terminated after 3 consecutive months.	3-month maximum reached (1st month off).	No purchases

[1] This example assumes that purchases begin in January. In reality, DPDP can—depending on prices and margin triggers—begin on September 1, 2014, which is the start of MPP-Dairy.

[2] The full month data for a given month is available at the end of the following month. For example, January data are not available until the end of February.

[2] Purchases cannot begin unless domestic cheddar cheese or nonfat dry milk prices are at certain differentials relative to world prices.

[3] In the example, June is the 3rd month of consevutive purchases. June would not be calculated as a potential trigger month, but it is shown on the chart to clearly show the concept of 3 months on and 3 months off for purchases. If purchases are taking place during a month, that month cannot be used as a trigger month for a future purchase period.

(b) DPDP purchases terminate and are not reinstated until the condition specified in paragraph (a) of this section is again met, whenever any one of the following occurs:

(1) If purchases were made for the preceding 3 months, even if the actual dairy production margin remains $4 or less per cwt of milk.

(2) If the actual dairy production margin has been greater than $4 per cwt of milk for the immediately preceding month.

(3) If the actual dairy production margin has been $4 or less, but more than $3, per cwt for the immediately preceding month and during the same month —

(i) The price in the United States for cheddar cheese was more than 5 percent above the world price, or

(ii) The price in the United States for non-fat dry milk (NDM) was more than

5 percent above the world price of skim milk powder.

(4) If the actual dairy production margin has been $3 or less per cwt of milk for the immediately preceding month and during the same month —

(i) The price in the United States for cheddar cheese was more than 7 percent above the world price; or

(ii) The price in the United States for NDM was more than 7 percent above the world price of skim milk powder.

(c) Purchases will terminate beginning with the first day of any month that does not qualify for DPDP purchases.

(d) For calculations under paragraphs (b)(3) and (4) of this section, the FSA Administrator may use data from a single or multiple locales or markets, including weighted averages, in consultation with AMS or other USDA agencies.

§ 1430.303 DPDP purchases.

(a) DPDP purchases will be made only for those months that the FSA Administrator has determined meet all the requirements specified in § 1430.302. The purchases are subject to DPDP requirements including price and quantity restrictions specified in this subpart.

(b) The Secretary has the authority to determine purchase and distribution methods for dairy product purchases and distribution. Unless otherwise determined by the Secretary, this authority is delegated to the Deputy Administrator in consultation with FNS.

(c) FSA and FNS will determine the types and quantities of products that will be purchased, in consultation with public or private nonprofit organizations and State and local agencies eligible to receive such products.

(d) The FSA Administrator will determine the quantity of purchases to be made for a qualifying month and will consider the results of any consultations in determining the quantity to be purchased. In making the determination, the FSA Administrator will also take into account a number of factors, including, but not limited to, dairy product market conditions, logistical considerations involved in the efficient and immediate distribution of the dairy products, the potential effect on markets and margins, time constraints of DPDP, and the cost effectiveness of the purchases. Approved quantities for a month will not exceed the amount of product that may be effectively distributed without waste.

(e) Purchases may be approved for a qualifying month to the extent that the purchase by FSA can reasonably be expected to be completed in that calendar month and the products delivered to recipient agencies within 90 days.

(f) DPDP purchases cannot be stored by or for CCC, and CCC cannot incur storage costs on behalf of recipient agencies for the dairy products.

(g) The purchase price of products will be the prevailing market price for like dairy products for private buyers as determined by the Deputy Administrator. That price may be, if approved by the Deputy Administrator, the price determined by the normal procurement methods used to procure foods for FNS domestic food assistance programs, if the dairy products are obtained that way.

§ 1430.304 Distribution of DPDP purchased products.

(a) Purchased products will be distributed to private and public nonprofit organizations eligible to receive donated foods for distribution to low-income groups through FNS' food distribution programs as specified in FNS program regulations and the requirements in 7 CFR part 250.

(b) Public and private nonprofit organizations receiving donated dairy products under this section will be responsible for the proper handling and distribution of such products in accordance with FNS program regulations, 7 CFR part 250, and FNS guidance and instructions.

(c) A private or nonprofit organization agency receiving donated products under this section which improperly distributes or uses such product or causes loss of or damage to such product, will be subject to recovery of losses or other corrective action in accordance with FNS program regulations, 7 CFR part 250.

Subparts D and E—[Removed]

■ 4. Remove subparts D and E.

Signed on August 20, 2014.

Juan M. Garcia,

Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2014–20567 Filed 8–28–14; 8:45 am]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2013–0276]

RIN 3150–AJ32

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2014; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a final rule that was published in the **Federal Register** (FR) on June 30, 2014, and amended the licensing, inspection, and annual fees charged to the NRC's applicants and licensees. This action is necessary to correct a typographical error in the fee category description in the Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses. NRC is also correcting a percentage shown for FY 2014 in Table VII, Effort Factors for Fuel Facilities.

DATES: This correction is effective August 29, 2014.

ADDRESSES: Please refer to Docket ID NRC–2013–0276 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–2013–0276. 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 ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in

ADAMS) is provided the first time that a document is referenced

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Arlette Howard, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1481, email: *Arlette.Howard@nrc.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 30, 2014, in FR Doc. 2014–15193, on pages 37129 and 37149, the following corrections are made:

■ 1. On page 37129, in column four of the table labeled ''TABLE VII—EFFORT FACTORS FOR FUEL FACILITIES, FY 2014,'' the Effort factor percent for Safeguards for Gas Centrifuge Enrichment Demonstration (1.A.(2)(b)), ''8.7'' is corrected to read ''8.4.''

§ 170.31 [Corrected]

■ 2. On page 37149, in the first column of SCHEDULE OF MATERIALS FEES—Continued, Category of materials licenses and type of fees, in Category 1 (*Appendix P, 10 CFR Part 110 Exports*), under ''G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain government-to-government consent for this process:'' correct ''For additional consents see'' to read ''For additional consents see 15.I.'' In the next line, remove ''15.'' so that the line correctly reads ''Application—new license, or amendment; or license exemption request.''

Dated at Rockville, Maryland, this 27th day of August 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2014–20778 Filed 8–28–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 3

Capital Adequacy Standards

CFR Correction

■ In Title 12 of the Code of Federal Regulations, Parts 1 to 199, revised as of January 1, 2014, on page 109, in § 3.121, in paragraph (c), in the third sentence, ''§ ???10.(c)(1)'' is corrected to read ''§ 3.10 (c)(1)'' and on page 180, in § 3.202, in paragraph (a), ''§ ???.2'' is corrected to read ''3.2''.

[FR Doc. 2014–20556 Filed 8–28–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30976; Amdt. No. 515]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, September 18, 2014.

FOR FURTHER INFORMATION CONTACT: Harry Hodges, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on 14 August 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, June 03, 2010.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT

[Amendment 515 Effective Date September 18, 2014]

From	To	MEA
§ 95.6001 Victor Routes—U.S		
§ 95.6003 VOR Federal Airway V3 Is Amended To Read in Part		
Fort Lauderdale, FL VOR/DME	Palm Beach, FL VORTAC	2000
§ 95.6005 VOR Federal Airway V5 Is Amended To Read in Part		
Athens, GA VORTAC	Irmos, GA FIX	3100
§ 95.6034 VOR Federal Airway V34 Is Amended To Read in Part		
Hancock, NY VOR/DME	Rimba, NY FIX	6400
§ 95.6051 VOR Federal Airway V51 Is Amended To Read in Part		
Athens, GA VORTAC	Irmos, GA FIX	3100
§ 95.6068 VOR Federal Airway V68 Is Amended To Read in Part		
Crays, TX FIX	Industry, TX VORTAC	2600
§ 95.6123 VOR Federal Airway V123 Is Amended To Read in Part		
Mitch, MD FIX *3000—GNSS MEA	Swann, MD FIX	*7000
§ 95.6144 VOR Federal Airway V144 Is Amended To Read in Part		
Kessel, WV VOR/DME	Linden, VA VORTAC	5500
§ 95.6154 VOR Federal Airway V154 Is Amended To Read in Part		
Macon, GA VORTAC #Macon R–099 Unusable use Dublin R–286	Dublin, GA VORTAC	#2300
§ 95.6198 VOR Federal Airway V198 Is Amended To Read in Part		
San Antonio, TX VORTAC Seeds, TX FIX *2000—MOCA	Seeds, TX FIX Wemar, TX FIX	2900 *2500
§ 95.6199 VOR Federal Airway V199 Is Amended To Read in Part		
Mendocino, CA VORTAC *5800—MCA Henle, CA FIX, S BND	*Henle, CA FIX	9000
§ 95.6210 VOR Federal Airway V210 Is Amended To Read in Part		
Aples, CA FIX	Hector, CA VORTAC	7900
§ 95.6212 VOR Federal Airway V212 Is Amended To Read in Part		
Seeds, TX FIX *2000—MOCA	Wemar, TX FIX	*2500
§ 95.6222 VOR Federal Airway V222 Is Amended To Read in Part		
Stonewall, TX VORTAC Crays, TX FIX	Marcs, TX FIX Industry, TX VORTAC	4500 2600
§ 95.6248 VOR Federal Airway V248 Is Amended To Read in Part		
Salinas, CA VORTAC *5500—MRA *6000—MCA Sardo, CA FIX, NW BND **5500—MOCA	*Sardo, CA FIX	**6000
§ 95.6259 VOR Federal Airway V259 Is Amended To Read in Part		
Barretts Mountain, NC VOR/DME	Gowbe, NC FIX	
	SE BND	5000
	NW BND	7500
Gowbe, NC FIX	*Holston Mountain, TN VORTAC	7500

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 515 Effective Date September 18, 2014]

From	To	MEA
*6600—MCA Holston Mountain, TN VORTAC, SE BND		
§ 95.6266 VOR Federal Airway V266 Is Amended To Read in Part		
Greensboro, NC VORTAC	South Boston, VA VORTAC	2700
§ 95.6267 VOR Federal Airway V267 Is Amended To Read in Part		
Athens, GA VORTAC	Irmos, GA FIX	3100
§ 95.6286 VOR Federal Airway V286 Is Amended To Read in Part		
Elkins, WV VORTAC	Derin, WV FIX.	
	W BND	5700
	E BND	6200
Derin, WV FIX	Teakk, VA FIX	6900
Teakk, VA FIX	Casanova, VA VORTAC	
	W BND	*6900
	E BND	*6500
*5800—MOCA		
§ 95.6292 VOR Federal Airway V292 Is Amended To Read in Part		
Hancock, NY VOR/DME	Sages, NY FIX	6400
Sages, NY FIX	Wigan, NY FIX	#000
#Unusable		
Wigan, NY FIX	Barnes, MA VORTAC	#*10000
*4900—MOCA		
#Barnes R–279 Unusable BYD 50 NM		
§ 95.6310 VOR Federal Airway V310 Is Amended To Read in Part		
Rosar, KY FIX	*Holston Mountain, TN VORTAC	6400
*6600—MCA Holston Mountain, TN VORTAC, E BND		
Holston Mountain, TN VORTAC	*Stain, TN FIX	6700
*7000—MCA Stain, TN FIX, E BND		
Stain, TN FIX	*Mulbe, NC FIX	7800
*7100—MCA Mulbe, NC FIX, W BND		
§ 95.6394 VOR Federal Airway V394 Is Amended To Read in Part		
Aples, CA FIX	Basal, CA FIX	7900
Basal, CA FIX	Daggett, CA VORTAC	7500
§ 95.6402 VOR Federal Airway V402 Is Amended To Read in Part		
Panhandle, TX VORTAC	*Brisc, TX FIX	**7000
*7000—MRA		
**5000—MOCA		
§ 95.6417 VOR Federal Airway V417 Is Amended To Read in Part		
Irmos, GA FIX	Athens, GA VORTAC	3100
§ 95.6440 VOR Federal Airway V440 Is Amended To Read in Part		
Panhandle, TX VORTAC	*Brisc, TX FIX	**7000
*7000—MRA		
**5000—MOCA		
§ 95.6445 VOR Federal Airway V445 Is Amended To Read in Part		
Mitch, MD FIX	Swann, MD FIX	*7000
*3000—GNSS MEA		
§ 95.6475 VOR Federal Airway V475 Is Amended To Read in Part		
Madison, CT VOR/DME	Norwich, CT VOR/DME	#2600
#Madison R–078 Unusable BYD 16 NM Use Norwich R–259		

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINT—Continued

[Amendment 515 Effective Date September 18, 2014]

From	To	MEA
§ 95.6556 VOR Federal Airway V556 Is Amended To Read in Part		
Stonewall, TX VORTAC	Marcs, TX FIX	4500
Seeds, TX FIX	Wemar, TX FIX	*2500
*2000—MOCA		
§ 95.6605 VOR Federal Airway V605 Is Amended To Read in Part		
Spartanburg, SC VORTAC	*Genod, NC FIX	**15000
*15000—MRA		
**4500—MOCA		
**5000—GNSS MEA		
*Genod, NC FIX	**Holston Mountain, TN VORTAZ	8500
*15000—MRA		
**6000—MCA Holston Mountain, TN VORTAC, S BND		

From	To	MEA	MAA
§ 95.7001 Jet Routes			
§ 95.7064 Jet Route J64 Is Amended To Delete			
Ravine, PA VORTAC	Robbinsville, NJ VORTAC	18000	45000
Is Amended To Read in Part			
Ravine, PA VORTAC	Saraa, PA FIX	18000	45000
§ 95.7077 Jet Route J77 Is Amended To Delete			
Boston, MA VOR/DME	Barnes, MA VORTAC	18000	45000
Barnes, MA VORTAC	Sparta, NJ VORTAC	18000	31000
Sparta, NJ VORTAC	Broadway, NJ VOR/DME	18000	45000
Broadway, NJ VOR/DME	Pottstown, PA VORTAC	18000	45000
Pottstown, PA VORTAC	Westminster, MD VORTAC	18000	45000
§ 95.7080 Jet Route J80 Is Amended To Delete			
Bellaire, OH VOR/DME	Vinse, PA FIX	18000	45000
Vinse, PA FIX	Kippi, PA FIX	26000	45000
Kippi, PA FIX	East Texas, PA VOR/DME	18000	38000
East Texas, PA VOR/DME	Sparta, NJ VORTAC	18000	32000
Sparta, NJ VORTAC	Barnes, MA VORTAC	18000	31000
Barnes, MA VORTAC	Bangor, ME VORTAC	18000	45000
§ 95.7001 Jet Routes			
§ 95.7502 Jet Route J502 Is Amended To Read in Part			
U.S. Canadian Border	Annette Island, AK VOR/DME	22000	45000

Airway segment		Changeover	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Point			
V198 Is Amended To Add Changeover Point			
San Antonio, TX VORTAC	Eagle Lake, TX VOR/DME	63	San Antonio.
V212 Is Amended To Add Changeover Point			
San Antonio, TX VORTAC	Eagle Lake, TX VOR/DME	63	San Antonio.
V286 Is Amended To Add Changeover Point			
Elkins, WV VORTAC	Casanova, VA VORTAC	43	Elkins.
V475 Is Amended To Add Changeover Point			
Madison, CT VOR/DME	Norwich, CT VOR/DME	16	Madison.

Airway segment		Changeover	
From	To	Distance	From
§ 95.8005 Jet Routes Changeover Points J80 Is Amended To Delete Changeover Point			
Bellaire, OH VOR/DME	East Texas, PA VOR/DME	132	Bellaire.

[FR Doc. 2014–20707 Filed 8–28–14; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 730, 732, 734, 736, 738, 740, 742, 743, 744, 746, 747, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, and 774

[Docket No. 140812660–4660–01]

RIN 0694–AG26

Updated Statements of Legal Authority for the Export Administration Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule updates the Code of Federal Regulations (CFR) legal authority paragraphs in the Export Administration Regulations (EAR) to cite the most recent Presidential notice extending an emergency declared pursuant to the International Emergency Economic Powers Act. This is a procedural rule that only updates authority paragraphs of the EAR. It does not alter any right, obligation or prohibition that applies to any person under the EAR.

DATES: The rule is effective August 29, 2014.

FOR FURTHER INFORMATION CONTACT: William Arvin, Regulatory Policy Division, Bureau of Industry and Security, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

Authority for all parts of the EAR other than part 745 rests, in part, on Executive Order 13222 of August 17, 2001—National Emergency with Respect to Export Control Regulations, 66 FR 44025, 3 CFR, 2001 Comp., p. 783 and on annual notices extending the emergency declared in that executive order. This rule revises the authority paragraphs for the affected parts to cite the most recent such notice, which the President signed on August 7, 2014.

This rule is purely procedural, and makes no changes other than to revise CFR authority paragraphs for the purpose of making the authority citations current. It does not change the text of any section of the EAR, nor does it alter any right, obligation or prohibition that applies to any person under the EAR.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This rule does not impose any regulatory burden on the public and is consistent with the goals of Executive Order 13563. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule does not involve any collection of information.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. This rule only updates legal authority citations. It clarifies information and is non-discretionary. This rule does not alter any right, obligation or prohibition that applies to any person under the EAR. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. Because neither the Administrative Procedure Act nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Parts 732, 740, 748, 750, 752, and 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Parts 736, 738, 770, and 772

Exports.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Parts 746 and 774

Exports, Reporting and recordkeeping requirements.

15 CFR Part 747

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 754

Agricultural commodities, Exports, Forests and forest products, Horses, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 756

Administrative practice and procedure, Exports, Penalties.

15 CFR Part 760

Boycotts, Exports, Reporting and recordkeeping requirements.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

15 CFR Part 764

Administrative practice and procedure, Exports, Law enforcement, Penalties.

15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Law enforcement, Penalties.

15 CFR Part 768

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, parts 730, 732, 734, 736, 738, 740, 742, 743, 744, 746, 747, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772 and 774 of the EAR (15 CFR parts 730–774) are amended as follows:

PART 730—[AMENDED]

■ 1. The authority citation for 15 CFR part 730 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of January 21, 2014, 79 FR 3721 (January 22, 2014); Notice of May 7, 2014, 79 FR 26589 (May 9, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 732—[AMENDED]

■ 2. The authority citation for 15 CFR part 732 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 734—[AMENDED]

■ 3. The authority citation for 15 CFR part 734 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 736—[AMENDED]

■ 4. The authority citation for 15 CFR part 736 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 2151 note; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of May 7, 2014, 79 FR 26589 (May 9, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 738—[AMENDED]

■ 5. The authority citation for 15 CFR part 738 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 740—[AMENDED]

■ 6. The authority citation for 15 CFR part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 742—[AMENDED]

■ 7. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 743—[AMENDED]

■ 8. The authority citation for 15 CFR part 743 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); 78 FR 16129; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 744—[AMENDED]

■ 9. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of January 21, 2014, 79 FR 3721 (January 22, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 746—[AMENDED]

■ 10. The authority citation for 15 CFR part 746 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR

26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Presidential Determination 2007–7 of December 7, 2006, 72 FR 1899 (January 16, 2007); Notice of May 7, 2014, 79 FR 26589 (May 9, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 747—[AMENDED]

■ 11. The authority citation for 15 CFR part 747 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* Sec 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 748—[AMENDED]

■ 12. The authority citation for 15 CFR part 748 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 750—[AMENDED]

■ 13. The authority citation for 15 CFR part 750 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* Sec 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 752—[AMENDED]

■ 14. The authority citation for 15 CFR part 752 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 754—[AMENDED]

■ 15. The authority citation for 15 CFR part 754 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 30 U.S.C. 185(s), 185(u); 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 756—[AMENDED]

■ 16. The authority citation for 15 CFR part 756 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 758—[AMENDED]

■ 17. The authority citation for 15 CFR part 758 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 760—[AMENDED]

■ 18. The authority citation for 15 CFR part 760 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 762—[AMENDED]

■ 19. The authority citation for 15 CFR part 762 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 764—[AMENDED]

■ 20. The authority citation for 15 CFR part 764 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 766—[AMENDED]

■ 21. The authority citation for 15 CFR part 766 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 768—[AMENDED]

■ 22. The authority citation for 15 CFR part 768 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 770—[AMENDED]

■ 23. The authority citation for 15 CFR part 770 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 772—[AMENDED]

■ 24. The authority citation for 15 CFR part 772 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

PART 774—[AMENDED]

■ 25. The authority citation for 15 CFR part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

Dated: August 25, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–20674 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 310

RIN 3084–AA98

Telemarketing Sales Rule Fees

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (the ''Commission'' or ''FTC'') is amending its Telemarketing Sales Rule (''TSR'') by updating the fees charged to entities accessing the National Do Not Call Registry (the ''Registry'') as required by the Do-Not-Call Registry Fee Extension Act of 2007.

DATES: The revised fees will become effective October 1, 2014.

ADDRESSES: Copies of this document are available on the Internet at the Commission's Web site: *http://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Ami Joy Dziekan, (202) 326–2648, BCP, Federal Trade Commission, 600 Pennsylvania Avenue NW., Room CC–9225, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To comply with the Do-Not-Call Registry Fee Extension Act of 2007 (Pub. L. 110–188, 122 Stat. 635) (''Act''), the Commission is amending the TSR by updating the fees entities are charged for accessing the Registry as follows: the revised rule

increases the annual fee for access to the Registry for each area code of data from $59 to $60 per area code; increases the maximum amount that will be charged to any single entity for accessing area codes of data from $16,228 to $16,482; and the fee per area code of data during the second six months of an entity's annual subscription period remains $30.

These increases are in accordance with the Act, which specifies that beginning after fiscal year 2009, the dollar amounts charged shall be increased by an amount equal to the amounts specified in the Act, multiplied by the percentage (if any) by which the average of the monthly consumer price index (for all urban consumers published by the Department of Labor) (''CPI'') for the most recently ended 12-month period ending on June 30 exceeds the CPI for the 12-month period ending June 30, 2008. The Act also states that any increase shall be rounded to the nearest dollar and that there shall be no increase in the dollar amounts if the change in the CPI is less than one percent. For fiscal year 2009, the Act specified that the original annual fee for access to the Registry for each area code of data was $54 per area code, or $27 per area code of data during the second six months of an entity's annual subscription period, and that the maximum amount that would be charged to any single entity for accessing area codes of data would be $14,850.

The determination whether a fee change is required and the amount of the fee change involves a two-step process. First, to determine whether a fee change is required, we measure the change in the CPI from the time of the previous increase in fees. There was an increase in the fees for fiscal year 2014. Accordingly, we calculated the change in the CPI since last year, and the increase was 1.56 percent. Because this change is over the one percent threshold, the fees will change for fiscal year 2015.

Second, to determine how much the fees should increase this fiscal year, we use the calculation specified by the Act set forth above, the percentage change in the baseline CPI applied to the original fees for fiscal year 2009. The average value of the CPI for July 1, 2007 to June 30, 2008 was 211.702; the average value for July 1, 2013 to June 30, 2014 was 234.966, an increase of 10.99 percent. Applying the 10.99 percent increase to the base amount from fiscal year 2009, leads to an increase from $59 to $60 in the fee from last year for access to a single area code of data for a full year for fiscal year 2015. The actual amount is $59.93, but when rounded, pursuant to the Act, the amount is $60. The fee for accessing an additional area code for a half year remains $30 (rounded from $29.97). The maximum amount charged increases to $16,482.02 (rounded to $16,482).

Administrative Procedure Act; Regulatory Flexibility Act; Paperwork Reduction Act. The revisions to the Fee Rule are technical in nature and merely incorporate statutory changes to the TSR. These statutory changes have been adopted without change or interpretation, making public comment unnecessary. Therefore, the Commission has determined that the notice and comment requirements of the Administrative Procedure Act do not apply. *See* 5 U.S.C. 553(b). For this reason, the requirements of the Regulatory Flexibility Act also do not apply. *See* 5 U.S.C. 603, 604.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3521, the Office of Management and Budget (''OMB'') approved the information collection requirements in the Amended TSR and assigned the following existing OMB Control Number: 3084–0097. The amendments outlined in this Final Rule pertain only to the fee provision (§ 310.8) of the Amended TSR and will not establish or alter any record keeping, reporting, or third-party disclosure requirements elsewhere in the Amended TSR.

Accordingly, the Federal Trade Commission amends part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108; 15 U.S.C. 6151–6155.

■ 2. In § 310.8, revise paragraphs (c) and (d) to read as follows:

§ 310.8 Fee for access to the National Do Not Call Registry.

* * * * *

(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is $60 for each area code of data accessed, up to a maximum of $16,482; *provided,* however, that there shall be no charge to any person for accessing the first five area codes of data, and *provided further,* that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing area codes of data in the National Do Not Call Registry if the person is permitted to access, but is not required to access, the National Do Not Call Registry under this Rule, 47 CFR 64.1200, or any other Federal regulation or law. Any person accessing the National Do Not Call Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.

(d) Each person who pays, either directly or through another person, the annual fee set forth in § 310.8(c), each person excepted under § 310.8(c) from paying the annual fee, and each person excepted from paying an annual fee under § 310.4(b)(1)(iii)(B), will be provided a unique account number that will allow that person to access the registry data for the selected area codes at any time for the twelve month period beginning on the first day of the month in which the person paid the fee (''the annual period''). To obtain access to additional area codes of data during the first six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay $60 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, each person required to pay the fee under § 310.8(c) must first pay $30 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

* * * * *

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–20745 Filed 8–28–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket Number USCG–2014–0717]

RIN 1625–AA08; 1625–AA00

Special Local Regulation and Safety Zone; Marine Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation

for one marine event and establishing one safety zone for one marine event within the Captain of the Port (COTP) Long Island Sound (LIS) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring or anchoring within these regulated areas and safety zone is prohibited unless authorized by COTP Sector Long Island Sound.

DATES: This rule is effective from September 6, 2014 to September 14, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0717]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Ian M. Fallon, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468–4565, *Ian.M.Fallon@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NAD 83 North American Datum of 1983

A. Regulatory History and Information

The Great Peconic Race is a first time event with no regulatory history.

The Region 8 Beach Brawl is a first time event with no regulatory history.

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. There is insufficient time to publish a NPRM and solicit comments from the public before these events take place. Thus, waiting for a comment period to run would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1231, 1233; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to define regulatory special local regulations and safety zones.

As discussed in the *Regulatory History and Information* section, two regattas will take place in the COTP Long Island Sound Zone between September 6, 2014 and September 14, 2014. The COTP Long Island Sound has determined that one special local regulation and one safety zone established by this temporary final rule are necessary to provide for the safety of life on navigable waterways during those events.

The Great Peconic Race course itself will start and end at Wades Beach on Shelter Island proceeding in a counter-clockwise direction to the east around Mashomack Point, and encompass a complete circumnavigation of Shelter Island, a total distance of 19 miles. On the south shore two event safety vessels will be present with a member of the south ferry staff with a red flag to stop and then wave paddlers on for safe crossing. One safety boat will be present on the north shore to assist paddlers as well.

The Region 8 Beach Brawl is a two day marine event held close to the shore of Savin Rock Beach in West Haven, CT. During the event, multiple jet-skis will be running a closed loop course approximately 600 feet by 1,000 feet in size. There will three support craft supervising the event and will be using flags to control the race participants.

C. Discussion of the Final Rule

The Coast Guard is establishing one special local regulation for one regatta, and one safety zone for another regatta, to provide for the safety of life on navigable waters during these events. This rule will be effective from September 6, 2014 to September 14, 2014.

The special local regulation and safety zone for these events covered by this regulation will be enforced on the dates, times, and locations listed in the table below.

Regatta event	
1 Great Peconic Race	• Date: September 14, 2014. • Time: 7:30 a.m. to 4:30 p.m. • Location: There will be two areas created for the special local regulation. The first area will encompass all navigable waters along the north shore of Shelter Island, NY including Shelter Island Sound, Pipes Cove, Greenport Harbor and Dering Harbor. The second area will encompass all navigable waters along the south shore of Shelter Island, NY including Shelter Island Sound and Smith Cove.
2 Region 8 Beach Brawl	• Date: September 6, 2014. • Time: 8:00 a.m. to 4:00 p.m. • Date: September 7, 2014. • Time: 8:00 a.m. to 4:00 p.m. • Location: Savin Rock Beach, West Haven, CT.

For the special local regulation created in support of the Great Peconic Race under the general regulations in § 100.901 of this part, vessels transiting within the regulated area shall travel at a no-wake speed and remain vigilant at all times. Additionally, recreational vessels shall yield right-of-way for event participants and event safety craft and shall follow directions given by event representatives during the event. Commercial vessels will have right-of-

way over event participants, and event safety craft.

For the safety zone created in support of the Region 8 Beach Brawl this rule prevents vessels from entering, transiting, mooring or anchoring within the area specifically designated as a safety zone.

Public notifications will be made to the local maritime community prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: The enforcement of the regulated area and safety zone will be relatively short in duration. Also, persons or vessels desiring entry into a regulated area or a deviance from the stipulations within a regulated area may be authorized to do so by the COTP Sector Long Island Sound or designated representative. Additionally, persons or vessels desiring to enter the safety zone may do so with permission from the COTP Sector Long Island Sound or designated representative. Furthermore, the special local regulation and the safety zone are designed in a way to limit impacts on vessel traffic, permitting vessels to navigate in other portions of the waterways not designated as a regulated area or as a safety zone. Finally, to increase public awareness of the special local regulation and the safety zone, the Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit, anchor or moor within the regulated area or the safety zone during the periods of enforcement from September 6, 2014 to September 14, 2014. However, this temporary final rule will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the Regulatory Planning and Review section.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination

with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of one special local regulation and one safety zone. This rule is categorically excluded from further review under paragraph 34(g) and (h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recording requirements, Waterways.

33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35T01–0717 to read as follows:

§ 100.35T01–0717 Special Local Regulation; Marine Event in Captain of the Port Long Island Sound Zone.

(a) *Regulations.* The general regulations contained in 33 CFR 100.901 as well as the following regulations apply to the event listed in the TABLE 1 of § 100.35T01–0717. These regulations will be enforced for the duration of the event.

(b) *Enforcement period.* This rule will be enforced on the date and time listed for the event in TABLE 1 of § 100.35T01–0717.

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

(1) *Patrol Commander.* Patrol Commander means a Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to monitor a regatta area, permit entry into the regatta area, give legally enforceable orders to persons or vessels within the regatta area, and take other actions authorized by the Captain of the Port. The Patrol Commander will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign ''Coast Guard Patrol Commander.''

(2) *Official patrol vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) *Enforcement.* Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(e) *Locations.* The regulated area for the regatta is described in TABLE 1 of § 100.35T01–0717.

TABLE 1 TO § 100.35T01–0717

Regatta event	
1 Great Peconic Race	• Date: September 14, 2014. • Time: 7:30 a.m. to 4:30 p.m. • Location: All navigable waters surrounding, Shelter Island, NY within two areas. First area is along the north shore of Shelter Island and includes Shelter Island Sound, Pipes Cove, Greenport Harbor and Dering Harbor. Starting from a point on land at Beach Point at position 41°06′25.66″ N; 072°20′04.95″ W then straight across Shelter Island Sound to a point on land near Cleaves Point at position 41°06′43.70″ N; 072°20′31.99″ W then west along the shoreline to a point on land near Brick Cove Marina at position 41°04′44.91″ N; 072°23′06.25″ W then straight across Shelter Island Sound to a point on land near Jennings Point at position 41°04′20.46″ N; 072°22′57.60″ W then east along the shoreline back to the point of origin. (NAD 83.) The second area is along the south shore of Shelter Island and includes Shelter Island Sound and Smith Cove. Starting at a point on land near West Neck Point at position 41°02′48.14″ N; 072°20′19.34″ W then straight across Shelter Island Sound to a point on land near Gleason Point at position 41°02′04.91″ N; 072°19′54.47″ W then east along the shoreline to a point on land at position 41°01′07.56″ N; 072°17′53.34″ W then straight across Smith Cove to a point on land near Mashomack Point at position 41°01′44.68″ N; 072°16′54.87″ W and then west along the shoreline to a point on land at position 41°02′48.94″ N; 072°19′49.98″ W and then across West Neck Harbor to the point of origin. (NAD 83) All positions are approximate. • Additional stipulations: Recreation vessel speed in the regulated area is restricted to no wake speed or 6 knots, whichever is slower. Recreational vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas unless authorized by COTP or designated representative. Recreational vessels shall yield right-of-way for event participants and event safety craft and shall follow directions given by event representatives during the event. Commercial vessels will have right-of-way over event participants, and event safety craft.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 4. Add § 165.T01–0717 to read as follows:

§ 165.T01–0717 Safety Zones; Marine Event in Captain of the Port Long Island Sound Zone.

(a) *Regulations.* The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the events listed in the TABLE 1 of § 165.T01–0717.

(b) *Enforcement period.* This rule will be enforced on the dates and times listed for each event in TABLE 1 of § 165.T01–0717.

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

(1) *Designated representative.* A ''designated representative'' is any commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. While members of the Coast Guard Auxiliary will not serve as the designated representative, they may be present to inform vessel operators of this regulation.

(2) *Official patrol vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) Vessels desiring to enter or operate within a safety zone should contact the COTP or the designated representative via VHF channel 16 or by telephone at (203) 468–4401 to obtain permission to do so. Vessels given permission to enter or operate in a safety zone must comply with all directions given to them by the COTP Sector Long Island Sound or the designated on-scene representative.

(e) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

TABLE 1 TO § 165.T01–0717

Regatta event	
1 Region 8 Beach Brawl	• Date: September 6, 2014. • Time: 8:00 p.m. to 4:00 p.m. • Date: September 7, 2014. • Time: 8:00 p.m. to 4:00 p.m. • Location: All navigable waters in New Haven Harbor, West Haven, CT encompassing an area starting from a point on land at 41°15′18″ N; 072°57′13″ W then southeast to point at 41°15′12″ N; 072°57′13″ W the northeast to point at 41°15′15″ N; 072°57′59″ W the northwest to a point on land at 41°15′21″ N; 072°57′02″ W then southwest along shoreline back to point of origin. (NAD 83) All positions are approximate.

Dated: August 14, 2014.

H. L. Morrison,

Commander, U. S. Coast Guard, Acting Captain of the Port Sector Long Island Sound.

[FR Doc. 2014–20676 Filed 8–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0354]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Venice, FL

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Venice Avenue Bridge, Gulf Intracoastal Waterway, mile 56.6, Venice, FL. This temporary operating schedule will allow the bridge to not open to navigation including tugs with tows, during the Sarasota Iron Man Triathlon scheduled for the second Sunday of November, for the safety of the participants.

DATES: This deviation is effective from 7 a.m. to 10 a.m. November 8, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0354] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions about this temporary deviation, call or email Ms. Danielle Mauser, Bridge Transportation Assistant, Seventh Coast Guard District, Bridge Branch; telephone 305–415–6946, email *Danielle.L.Mauser2@uscg.mil.* If you have questions about viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: In order to accommodate the annual Sarasota Iron Man Triathlon, a temporary schedule deviation has been authorized for the Venice Avenue Bridge, across the Gulf Intracoastal Waterway, mile 56.6 in Venice, FL. This deviation is in effect from 7 a.m. to 10 a.m. on November 8, 2014. During this time, the bridge shall remain closed to navigation, including tugs with tows. Currently, the bridge opens as required per 33 CFR 117.287 (a–2), which states ''the draw of the Venice Avenue bridge, shall open on signal, except that from 7 a.m. to 4:30 p.m., Monday through Friday except Federal holidays. The draw need open only at 10 minutes after the hour, 30 minutes after the hour and 50 minutes after the hour, except between 4:35 p.m. and 5:35 p.m.'' The regulation changes may have a minor impact on vessels transiting the Gulf Intracoastal Waterway in the vicinity of Venice, FL, but will still meet the reasonable needs of navigation.

The Venice Avenue Bridge provides a vertical clearance of 30 feet at mean high water in the closed position and a horizontal clearance of 90 feet. Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies. Also, vessels capable of using the Gulf of Mexico as an alternate route may do so in lieu of transiting the Gulf Intracoastal Waterway at mile 56.6 in Venice, FL from 7 a.m. to 10 a.m. November 8, 2014. The Coast Guard will inform users of the waterways through Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange transits to minimize any impact caused by the temporary deviation.

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

Dated: August 15, 2014.

Barry Dragon,

Director, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 2014–20539 Filed 8–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0762]

Drawbridge Operation Regulations; Townsend Gut, Boothbay Harbor and Southport, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Southport SR27 Bridge across Townsend Gut, mile 0.7, between Boothbay Harbor and Southport, Maine. The bridge owner, Maine Department of Transportation will be performing structural repairs at the bridge. This deviation allows the bridge to operate on a temporary schedule for eleven weeks to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from September 8, 2014 through November 22, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0762] is

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. John McDonald, Project Officer, First Coast Guard District, telephone (617) 223–8364, *john.w.mcdonald@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Southport SR27 Bridge, across Townsend Gut, mile 0.7, between Boothbay Harbor and Southport, Maine, has a vertical clearance in the closed position of 10 feet above mean high water and 19 feet above mean low water. The bridge operating regulations are listed at 33 CFR 117.537.

The waterway is transited by recreational and commercial fishing boats.

The bridge owner, Maine Department of Transportation, requested a temporary deviation from the normal operating schedule to facilitate deck repairs at the bridge.

Under this temporary deviation the Southport SR27 Bridge shall operate as follows: From September 8, 2014 through November 22, 2014, the draw shall open on signal at 12 a.m., 3 a.m., 6 a.m., 9 a.m., 12 p.m., 3 p.m., 6 p.m., and 9 p.m. The draw shall remain in the closed position from 6 p.m. through 6 a.m. on twelve dates to be announced in the Local Notice to Mariners (LNTM) and via a broadcast notice to mariners (BNTM), at least two weeks prior to each closure date. There is an alternate route for navigation around Southport. Vessels that can pass under the bridge in the closed position may do so at all times.

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

Dated: August 15, 2014.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2014–20541 Filed 8–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0743]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Loop Parkway Bridge, mile 0.7, across Long Creek, and the Meadowbrook Parkway Bridge, mile 12.8, across Sloop Channel, both at Hempstead, New York. This deviation is necessary to facilitate the 2014 Dee Snider's Ride to Fight Hunger on Long Island. The deviation allows the two bridges to remain in the closed position during this public event.

DATES: This deviation is effective from 11 a.m. through 1 p.m. on September 7, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0743] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 668–7165, *judy.k.leung-yee@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Loop Parkway Bridge, mile 0.7, across Long Creek has a vertical clearance in the closed position of 21 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(f).

The Meadowbrook Parkway Bridge, mile 12.8, across Sloop Channel has a vertical clearance in the closed position of 22 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(h). Long Creek and Sloop Channel are transited by commercial fishing and recreational vessel traffic.

The bridge owner for both bridges, the State of New York Department of Transportation, requested bridge closures to facilitate a public event, the 2014 Dee Snider's Ride.

Under this temporary deviation the Loop Parkway and the Meadowbrook Parkway Bridges may remain in the closed position between 11 a.m. and 1 p.m. on September 7, 2014, to facilitate a public event, the 2014 Dee Snider's Ride.

There are no alternate routes for vessel traffic; however, vessels that can pass under the closed draws during this closure may do so at any time. The bridges may be opened in the event of an emergency.

The Coast Guard will inform the users of the waterways through our Local and or Broadcast Notices to Mariners of the change in operating schedule for the bridges so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: August 18, 2014.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2014–20540 Filed 8–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0744]

Drawbridge Operation Regulations; Port Allen Canal, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad Bridge across the Port Allen Canal, mile 8.7 (Gulf Intracoastal Canal, Morgan City to Port Allen (Alternate Route), mile 56.0), near Morley, West Baton Rouge Parish, Louisiana. This deviation allows the bridge to remain closed to navigation for five hours on three consecutive days. The deviation is necessary to conduct maintenance and install new track panels on the bridge.

DATES: This deviation is effective from 7 a.m. on Tuesday September 9, 2014 through noon on Thursday, September 11, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0744] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David Frank, Bridge Administration Branch, Coast Guard; telephone 504–671–2128, email *David.M.Frank@uscg.mil.* If you have questions on viewing the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company has requested a temporary deviation in order to conduct maintenance and install track panels on the Union Pacific Railroad Vertical Lift Span Bridge across the Port Allen Canal, mile 8.7 (Gulf Intracoastal Canal, Morgan City to Port Allen (Alternate Route), mile 56.0), near Morley, West Baton Rouge Parish, Louisiana. This temporary deviation will allow the bridge to remain in the closed-to-navigation position from 7 a.m. to noon from Tuesday, September 9, 2014, until Thursday, September 11, 2014.

The bridge has a vertical clearance of 7 feet above mean high water in the closed-to-navigation position and 73 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists mainly of tugs with tows. Alternate routes are not readily available. The bridge owner can open the bridge in case of an emergency. The repairs are necessary for continued safe operation of the draw span.

Due to prior experience, as well as coordination with waterway users, it has been determined that this closure will not have a significant effect on these vessels.

In accordance with 33 CFR 117.35, the bridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 18, 2014.

David M. Frank,

Bridge Administrator.

[FR Doc. 2014–20542 Filed 8–28–14; 8:45 am]

BILLING CODE 9910–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0531]

RIN 1625–AA00

Safety Zone, Lower Mississippi River Mile 94.0 to Mile 95.0; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Lower Mississippi River from mile marker 94.0 to mile marker 95.0 above head of passes (AHP). This safety zone is necessary to protect persons and vessels from potential safety hazards associated with a barge based fireworks display in the Lower Mississippi River at mile marker 94.4 AHP. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) New Orleans or a designated representative.

DATES: This rule is effective from 8:15 p.m. to 9:00 p.m. on September 13, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0531]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander (LCDR) James Gatz, Sector New Orleans, at (504) 365–2281 or *James.C.Gatz@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

AHP Above Head of Passes
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
MM Mile Marker
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and unnecessary. The Coast Guard received information about this fireworks display on or about July 25, 2014. As scheduled, the display would take place before the full NPRM process could be completed. Because of the dangers presented by an aerial barge based fireworks display taking place on and over the waterway, it is in the public interest to establish this safety zone to protect transiting vessels and mariners. Completing the full NPRM process would delay the establishment of this safety zone, which is necessary to protect life and property from the possible dangers and hazards associated with a nighttime waterway based fireworks display. Delay would also unnecessarily interfere with possible contractual obligations. While it is in the public's best interest to provide this safety measure, the impacts on navigation are expected to be minimal as the safety zone will only be in effect for a short duration.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule

effective less than 30 days after publication in the **Federal Register**. Providing a full 30 days notice is contrary to the public interest as it would delay the effectiveness of the safety zone until after the planned fireworks event. Immediate action is needed to protect vessels and mariners from the safety hazards associated with an aerial fireworks display over a waterway. The Coast Guard will notify the public and maritime community that the safety zone will be in effect and of its enforcement periods via broadcast notices to mariners.

B. Basis and Purpose

Pyrotecnico, a company specializing in fireworks displays, informed the Coast Guard of a fireworks display sponsored by Malena Badon and planned for September 13, 2014. The fireworks will be launched from a barge located at MM 94.4 AHP on the Lower Mississippi River. This display will take place between 8:15 p.m. and 9:00 p.m. on September 13, 2014 in a high commercial traffic area near a tight river bend. Therefore, the Coast Guard has determined that a safety zone is needed to ensure safe navigation for all those in the vicinity of the fireworks display. This safety zone is established to protect the public, mariners, and vessels from the hazards associated with a barge based fireworks display on and over the waterway.

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River from 8:15 p.m. to 9:00 p.m. on September 13, 2014. The safety zone will include the entire width of the Lower Mississippi River in New Orleans, LA, from MM 94.0 to MM 95.0 AHP. Entry into this zone is prohibited unless permission has been granted by the COTP New Orleans, or a designated representative.

The COTP New Orleans will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule. Mariners and other members of the public may also contact Coast Guard Sector New Orleans Command Center to inquire about the status of the safety zone, at (504) 365–2200.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This safety zone will restrict navigation on the Lower Mississippi River from MM 94.0 to MM 95.0 AHP, for approximately forty-five minutes on September 13, 2014. Due to the limited scope and short duration of the safety zone, the impacts on routine navigation are expected to be minimal.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Lower Mississippi River from MM 94.0 to MM 95.0 AHP between 8:15 and 9:00 p.m. on September 13, 2014. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because it is limited in scope and will only be in effect for approximately forty-five minutes on one day. Before enforcement, COTP New Orleans will issue maritime advisories widely available to users of the river and will make notifications to the public through marine band radio when the safety zone is being enforced. Additionally, deviation from this rule may be requested and will be considered on a case-by-case basis by COTP New Orleans or a COTP New Orleans designated representative.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of

their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary safety zone for all waters of the Lower Mississippi River from MM 94.0 to MM 95.0 AHP. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record-keeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04.6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08–0531 is added to read as follows:

§ 165.T08–0531 Safety Zone, Mississippi River Mile 94–Mile 95; New Orleans, LA.

(a) Location. The following area is a safety zone: All waters of the Lower Mississippi River from mile marker 94.0 to mile marker 95.0 above head of passes, New Orleans, LA.

(b) Effective Date and Enforcement Period. This rule is effective on September 13, 2014. The safety zone will be enforced from 8:15 p.m. until 9:00 p.m. on September 13, 2014.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) New Orleans or designated personnel. Designated personnel include commissioned, warrant and petty officers of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) Vessels requiring deviation from this rule must request permission from the COTP New Orleans or a COTP New Orleans designated representative. They may be contacted on VHF–FM Channel 16 or 67, or through Coast Guard Sector New Orleans at 504–365–2200.

(3) Persons and vessels permitted to deviate from this safety zone regulation and enter the restricted area must transit at the slowest safe speed and comply with all lawful directions issued by the COTP New Orleans or designated representative.

(d) *Information Broadcasts.* The COTP New Orleans or a COTP New Orleans designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: August 13, 2014.

P. C. Schifflin,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 2014–20537 Filed 8–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

RIN 1625–AA00

[Docket No. USCG–2014–0748]

Safety Zone; Seafood Festival Fireworks, Fox River, Menasha, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Fox River in Menasha, Wisconsin. This safety zone is intended to restrict vessels from a portion of the Fox River due to a fireworks display. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the fireworks display.

DATES: This rule is effective and will be enforced from 8:45 p.m. until 10:30 p.m. on September 6, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0748. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room

W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or *Joseph.P.McCollum@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a fireworks display, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** for the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 160.5; Department of Homeland Security Delegation No. 0170.1.

During the evening of September 6, 2014, the Coast Guard anticipates that a fireworks display will occur from two floating platforms positioned on the Fox River in Menasha, Wisconsin. The Captain of the Port Lake Michigan has determined that this fireworks display will pose a significant risk to public safety and property. Such hazards include falling and flaming debris, and collisions among passing vessel traffic and the firing platforms.

C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to ensure the safety of persons and vessels during the fireworks display in Menasha, Wisconsin. This rule is effective and will be enforced from 8:45 p.m. until 10:30 p.m. on September 6, 2014. The safety zone will encompass all waters of the Fox River near Menasha, Wisconsin within a 600-foot radius of approximate position 44°11′59.5″ N, 088°25′54.3″ W (NAD 83).

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

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will only impact a small area and will be enforced for less than two hours on one day in September, 2014. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port or her designated on-scene representative.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Fox River during the times that this zone is enforced on September 6, 2014.

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

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0748 to read as follows:

§ 165.T09–0748 Safety Zone; Seafood Festival Fireworks, Fox River, Menasha, WI.

(a) *Location.* All waters of the Fox River near Menasha, Wisconsin within a 600-foot radius of approximate position 44°11′9.5″ N, 088°25′54.3″ W (NAD 83).

(b) *Effective and enforcement period.* This section is effective and will be enforced from 8:45 p.m. until 10:30 p.m. on September 6, 2014.

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

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or her designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on her behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or her on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or her on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or her on-scene representative.

Dated: August 20, 2014.

A. B. Cocanour,

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

[FR Doc. 2014–20666 Filed 8–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0672]

Safety Zone; USS MIDWAY Fireworks, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for a USS MIDWAY private fireworks display on October 6, 2014. This marine event occurs on the navigable waters of San Diego Bay, immediately to the west of the USS MIDWAY located in San Diego Bay, California. This action is necessary to provide for the safety of the participants, crew, spectators, safety vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations for the marine event listed as Item 6 in Table 1 to 33 CFR 165.1123 will be enforced on October 6, 2014 from 9:45 p.m. to 10:15 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions about this document, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7233, email *Giacomo.Terrizzi@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in San Diego Bay for the private fireworks display. This display occurs on October 6, 2014 from 9:45 p.m. to 10:15 p.m., off of the moored attraction vessel, USS MIDWAY. Fireworks displays occur frequently off of the USS MIDWAY, and the corresponding safety zone to the fireworks display is published in 33 CFR 165.1123, Table 1, Item 6.

Under the provisions of 33 CFR 165.1123, persons and vessels are prohibited from entering into, transiting through, or anchoring within the 600 foot regulated area safety zone that includes the tug and barge unless authorized by the Captain of the Port, or his designated representative. Persons or vessels desiring to enter into or pass through the safety zone may request permission from the Captain of the Port or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Spectator vessels may safely transit outside the regulated area, but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels or commercial traffic within the federal channel. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in patrol and notification of this regulation.

This document is issued under authority of 5 U.S.C. 552(a) and 33 CFR 165.1123. In addition to providing notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated in this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: August 1, 2014.

J. S. Spaner,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2014–20668 Filed 8–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0723]

RIN 1625–AA00

Safety Zone, Shallowbag Bay; Manteo, NC

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Shallowbag Bay, Manteo, NC. This action is necessary to protect the life and property of the maritime public from the hazards posed by fireworks displays. This safety zone is intended to restrict vessels from a portion of Shallowbag Bay River during the Outer Banks Bluegrass Festival Fireworks display.

DATES: This rule is effective August 29, 2014 and will be enforced from 8 p.m. to 10 p.m. on September 26, 2014 unless cancelled earlier by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Derek J. Burrill, Coast Guard Sector North Carolina, Coast Guard; telephone (910) 772–2230, email *Derek.J.Burrill@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On May 17, 2013 we published a Notice of Proposed Rulemaking (NPRM) entitled ''Safety Zone, Shallowbag Bay; Manteo, NC'' in the **Federal Register** (78 FR 29091). We received no comments on the proposed rules. No public meeting was requested, and none was held.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1. This notice is issued under the authority of the Freedom of Information Act, 5 U.S.C. 552(a).

On September 26, 2014 fireworks will be launched from a barge located in Shallowbag Bay in Manteo, North Carolina as part of the Outer Banks Bluegrass Festival. The temporary safety zone created by this rule is necessary to ensure the safety of vessels and spectators from hazards associated with the fireworks display. Such hazards include obstructions to the waterway that may cause death, serious bodily harm, or property damage, as well as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. Establishing a safety zone to control vessel movement around the location of the launch area will help ensure the safety of persons and property in the vicinity of this event and help minimize the associated risks.

C. Discussion of Proposed Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading, and launching of the Outer Banks Bluegrass

Festival Fireworks Display. The fireworks display will occur for approximately 15 minutes from 9 p.m. to 9:15 p.m. on September 26, 2014. However, the Safety Zone will be effective and enforced from 8 p.m. until 10 p.m. in order to ensure safety during the setup, loading and removal of the display equipment.

The safety zone will encompass all waters on Shallowbag Bay within a 200 yard radius of a barge anchor in approximate position 35°54′31″ N, longitude 075°39′42″ W from 8 p.m. until 10 p.m. on September 26, 2014. All geographic coordinates are North American Datum 1983 (NAD 83). The effect of this temporary safety zone will be to restrict navigation in the regulated area during the fireworks display.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Sector North Carolina or his designated representative. The Captain of the Port or his designated representative may be contacted via VHF Channel 16. Notification of the temporary safety zone will be provided to the public via marine information broadcasts.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the area, the effect of this rule will not be significant because: (i) The safety zone will only be in effect from 8 p.m. to 10 p.m. on September 26, 2014, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to the section of Shallowbag Bay, vessel traffic will be able to transit safely around the safety zone.

2. Impact on Small Entities

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit through or anchor in the specified portion of Shallowbag Bay on September 26, 2014.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only be in effect for two hours, from 8 p.m. to 10 p.m. Although the safety zone will apply to a section of Shallowbag Bay, vessel traffic will be able to transit safely around the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule establishes a temporary safety zone to protect the public from fireworks fallout. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–0723 to read as follows:

§ 165.T05–0723 Safety Zone, Shallowbag Bay; Manteo, NC.

(a) *Definitions.* For the purposes of this section, Captain of the Port means the Commander, Sector North Carolina. *Representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: This safety zone will encompass all waters on Shallowbag Bay within a 200 yard radius of a barge anchor in position 35°54′31″ N, longitude 075°39′42″ W. All geographic coordinates are North American Datum 1983 (NAD 83).

(c) *Regulations.* (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (910) 343–3882 or by radio on VHF Marine Band Radio, channels 13 and 16.

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

(e) *Enforcement period.* This section will be enforced from 8 p.m. to 10 p.m. on September 26, 2014 unless cancelled earlier by the Captain of the Port.

Dated: August 14, 2014.

S. R. Murtagh,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2014–20675 Filed 8–28–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0297; FRL–9911–57]

Kasugamycin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of kasugamycin in or on fruit, pome. Arysta LifeScience North America, LLC (Arysta LifeScience), requested a number of tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA) which are addressed in this document.

DATES: This regulation is effective August 29, 2014. Objections and requests for hearings must be received on or before October 28, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2010–0297, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

determine whether this document applies to them. Potentially affected entities may include:

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

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

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0297 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 28, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0297, by one of the following methods:

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of May 19, 2010 (75 FR 28009) (FRL–8823–2), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0F7689) by Arysta LifeScience North America, LLC, 15401 Weston Parkway, Cary, NC 27513. The petition requested that 40 CFR 180.614 be amended by establishing tolerances for residues of the fungicide kasugamycin, in or on fruiting vegetables (crop group 8) at 0.15 parts per million (ppm), pome fruit (crop group 11) at 0.25 ppm, and walnuts at 0.04 ppm. That document referenced a summary of the petition prepared by Arysta LifeScience, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the proposed tolerance levels and the crops for which tolerances will be established. The reasons for these changes are explained in Unit IV.C. The tolerance in imported fruiting vegetables, crop group 8 is not being removed or revised at this time. This regulation additionally deletes the time-limited tolerance for apple, as the tolerance will be superseded by permanent tolerances in the various pome fruits.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

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

Kasugamycin is a member of the aminoglycoside family of antibiotics, which also includes streptomycin and gentamicin. These agents inhibit bacterial protein synthesis by binding to the 30S subunit of the bacterial ribosome. Their penetration through the cell membrane of the bacterium depends partly on oxygen-dependent active transport by a polyamine carrier system that seems to be absent in mammalian systems.

Kasugamycin exhibits low acute toxicity, being only a mild dermal and ocular irritant. The major effects observed across species in multiple-dose studies were decreased body weights and body weight gains. The primary target organs identified for kasugamycin were the testes and kidney in the rat and mouse. However, these effects were only seen at higher dose levels, generally at the highest dose tested (HDT). In the combined chronic toxicity/carcinogenicity study in rats, the basis for the lowest-observed-adverse-effect level (LOAEL) was an increased incidence and severity of testicular tubular atrophy, observed during the histopathologic examinations at the end of the 2-year dosing period, as well as at 6 months, and 1 year. Testicular degeneration and atrophy

were observed in adult F1 males in the rat reproductive toxicity study at the highest dose. Testicular tubular dilatation and degeneration were observed in the mouse subchronic study, but at a dose that exceeded the limit dose; the mouse carcinogenicity study tested at much lower doses, and these effects were not observed. In the dog chronic toxicity study, testicular inflammation was reported at the high dose, but was not accompanied by atrophic or degenerative changes, and was not considered a treatment-related adverse effect.

Kidney toxicity is often associated with exposure to aminoglycoside antibiotics, and the metabolism study indicated higher levels of radioactivity in the kidneys than other tissues. In male F1 rats in the reproductive toxicity study, dilatation of the kidney, and an increased incidence of chronic progressive nephropathy were observed. In the subchronic rat study, an increased incidence of eosinophilic bodies (graded slight for severity) in the renal proximal tubular cells was reported in males at several dose levels. These effects were considered treatment related, but not adverse due to their low severity grade, and lack of associated findings. However, in female rats, increased epithelial cells in the urinary sediment, along with decreased urine pH (decreased pH was also seen in males), were observed at the high dose, and considered evidence of possible kidney toxicity. Lipofuscin deposition (slight) was observed in the rat combined chronic toxicity/carcinogenicity study, but was not considered adverse due to the lack of other related findings; this study tested up to the no-observed-adverse-effect level (NOAEL) of the subchronic study. In the mouse, following subchronic exposure, minimal to severe basophilia/hyperplasia in the renal *pars recta* in females was observed. No renal effects were reported in the mouse carcinogenicity study at lower doses, or in the dog subchronic or chronic studies.

There was no evidence that exposure to kasugamycin results in neurotoxicity, and a developmental neurotoxicity (DNT) study is not required. Also, there was no evidence of immune system effects based on the review of a submitted immunotoxicity study. Although a 28-day rat inhalation toxicity study was not submitted, EPA has determined that it is not required based on available hazard and exposure information.

The database is complete with respect to pre- and postnatal toxicity, and shows no evidence of increased qualitative or quantitative susceptibility in the offspring, or in the developing fetus. There was no evidence of carcinogenicity in male and female mice, nor in male and female rats at doses that were adequate to assess the carcinogenic potential of kasugamycin. There was no evidence of mutagenicity. Based on the overall weight of the evidence, kasugamycin is classified as ''not likely to be carcinogenic to humans.''

Although antimicrobial drug residues present in or on food may cause adverse effects on the ecology of the intestinal microflora of consumers, the Agency does not believe this is a concern for kasugamycin because of the use pattern (application occurring prior to fruit development) and low residue detection in field trials.

Specific information on the studies received and the nature of the adverse effects caused by kasugamycin as well as the NOAEL and the LOAEL from the toxicity studies can be found at *http://www.regulations.gov* in document ''Kasugamycin. Human Health Risk Assessment for the Proposed Use of the Fungicide on Fruiting Vegetables, Pome Fruits, and Walnuts'' at pp. 15–21 in docket ID number EPA–HQ–OPP–2010–0297.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern (LOC) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which NOAEL and the LOAEL are identified. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.* A summary of the toxicological endpoints for kasugamycin used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR KASUGAMYCIN RELEVANT TO FFDCA ANALYSIS

Exposure scenario	Point of departure	Uncertainty and FQPA SF	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (all populations)	An appropriate dose and endpoint for this risk assessment scenario was not identified, based on a lack of single-dose effects in the database.			
Chronic dietary (all populations including infants and children, and females age 13 to 49).	NOAEL = 11 mg/kg/day.	UF_A = 10X UF_H = 10X FQPA SF = 1X	Chronic RfD = 0.11 mg/kg/day. cPAD = 0.11 mg/kg/day.	Combined chronic toxicity/carcinogenicity study in the rat. LOAEL = 116 mg/kg/day, based on testicular atrophy and softening.
Cancer (oral, dermal, inhalation)	Classification: ''Not likely to be carcinogenic to humans.''			

Point of Departure = a data point or estimated point derived from observed dose-response data, which is used to mark the beginning of extrapolation to determine risk associated with lower environmentally relevant human exposures. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = Food Quality Protection Act Safety Factor. NOAEL = no-observed-adverse-effect level. LOAEL = lowest-observed-adverse-effect level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. LOC = level of concern.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to kasugamycin, EPA considered exposure under the petitioned-for tolerances as well as all existing kasugamycin tolerances in 40 CFR 180.614. EPA assessed dietary exposures from kasugamycin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for kasugamycin; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the United States Department of Agriculture (USDA) 1994–1996 and the 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). An unrefined chronic aggregate dietary (food and drinking water) exposure and risk assessment was conducted using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID™), Version 2.03. The residue inputs into the dietary model were the recommended tolerance level residues and default processing factors were used, with the exception of the apple juice processing factor, for which the 1.5X data-derived processing factor was used. EPA assumed 100% crop treated (PCT) for all proposed uses.

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

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

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

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) the estimated drinking water concentrations (EDWCs) of kasugamycin for chronic exposures for non-cancer assessments are estimated to be 0.001178 ppm for surface water. EDWCs of kasugamycin for ground water were estimated to be 0.000116 ppm via the Screening Concentration in Ground Water (SCI–GROW) system. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 0.001178 ppm was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Kasugamycin is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found kasugamycin to share a common mechanism of toxicity with any other substances, and kasugamycin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that kasugamycin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased quantitative or qualitative susceptibility in rat or rabbit developmental toxicity studies, or in the rat reproductive study. No developmental effects were seen in the rat developmental study, whereas maternal toxicity (decreased body weight gain, food consumption, and feed efficiency) was observed at the highest dose. Although no maternal or developmental toxicity was observed in the main rabbit developmental toxicity study, in the dose range-finding study, maternal weight loss, reduced food consumption during dosing, and abortions (occurring at GD 18 or later) were observed at higher doses. Fetal weight was decreased at the maternally toxic dose but, due to abortions or maternal death, was not evaluated at the higher doses. In the rat reproductive toxicity study, parental toxicity included decreased parental body weight/weight gain at the mid and high doses. No offspring toxicity was observed. Reproductive toxicity was observed only at the highest dose tested (above the parental LOAEL), with testicular atrophy, decreased fertility and fecundity in the F1 parents for both litters, and an increased pre-coital interval during the mating period for the F2b litter.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for the following reasons:

i. The toxicity database for kasugamycin is complete, including rat acute and subchronic neurotoxicity screening studies and a mouse immunotoxicity study. Based on the lack of observed neurotoxicity, a DNT study is not required. Furthermore, a 28-day inhalation study is not required based on the available hazard and exposure information and proposed and existing uses for kasugamycin.

ii. There is no evidence of increased quantitative or qualitative pre- and/or postnatal susceptibility observed in developmental toxicity studies in the rat and rabbit, or in a 2-generation reproduction study in the rat.

iii. The exposure assessment for food and drinking water will not underestimate potential dietary exposure to kasugamycin. There are no proposed or existing residential uses for kasugamycin.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, kasugamycin is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to kasugamycin from food and water are below HED's LOC of 100% of the cPAD for all population subgroups. The most highly exposed population subgroup, children 1–2 years old, had a risk estimate of 1.7% cPAD. There are no residential uses for kasugamycin to aggregate with chronic exposure to kasugamycin from food and water.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposures take into account short- and intermediate-term residential exposures plus chronic exposure to food and water (considered to be a background exposure level). Because there are no residential uses for kasugamycin, kasugamycin is not expected to pose a short- or intermediate-term risk.

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

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology high-performance liquid chromatography with ultraviolet detection (HPLC/UV) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

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

C. Revisions to Petitioned-For Tolerances

As EPA explained in its latest crop group rulemaking published in the **Federal Register** of August 22, 2012 (77 FR 50617) (FRL–9354–3), EPA will attempt to conform petitions seeking tolerances for crop groups to the newer established crop groups, rather than establish new tolerances under the pre-existing crop groups, as part of its effort to eventually convert tolerances for any pre-existing crop group to tolerances with coverage under the revised crop group. Therefore, although the petitioner requested tolerances for crop group 11 (pome fruit), EPA evaluated tolerances for crop group 11–10 (pome fruit).

Based on the available residue data and using the Organization for Economic Co-operation and Development (OECD) tolerance calculation procedure, EPA is establishing a tolerance of 0.20 ppm for residues of kasugamycin in or on fruit, pome (crop group 11–10).

EPA also is not establishing tolerances for walnuts and fruiting vegetables because the petitioner withdrew its tolerance requests for those commodities.

The Agency has revised the tolerance expression in 40 CFR 180.614(a) to clarify:

1. That, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of kasugamycin not specifically mentioned.

2. That compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of kasugamycin, in or on pome fruits (crop group 11–10) at 0.20 ppm. This regulation additionally deletes the time-limited tolerance for apple, as the tolerance will be superseded by permanent tolerances in the various pome fruits.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 20, 2014.

Marty Monell,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Revise § 180.614 to read as follows:

§ 180.614 Kasugamycin; tolerances for residues.

(a) *General.* Tolerances are established for residues of kasugamycin, including its metabolites and degradates, in or on the commodities listed in the following table. Compliance with the tolerance levels specified is to be determined by measuring only kasugamycin (3-*O*-[2-amino-4-[(carboxyimino-methyl)amino]-2,3,4,6-tetradeoxy-α-*D-arabino*-hexopyranosyl]-*D-chiro*-inositol) in or on the commodity.

Commodity	Parts per million
Fruit, pome, group 11–10	0.20
Vegetable, fruiting, group 8 [1]	0.04

[1] There is no U.S. registration as of September 1, 2005.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2014–20502 Filed 8–28–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–9915–97–Region–6; EPA–R06–RCRA–2013–0785]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Oklahoma Department of Environmental Quality (ODEQ) has applied to the Environmental Protection Agency (EPA) for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Oklahoma's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on October 28, 2014 unless the EPA receives adverse written comment by September 29, 2014. If the EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: patterson.alima@epa.gov.*
3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.
4. *Hand Delivery or Courier.* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through *regulations.gov,* or email. The Federal regulations.gov Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy Oklahoma's application and associated publicly

available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, (214) 665–8533, EPA Region 6 1445 Ross Avenue, Dallas, Texas 75202–2733, and Email address *patterson.alima@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

B. What decisions have we made in this rule?

We conclude that Oklahoma's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Oklahoma Final authorization to operate its hazardous waste program with the changes described in the authorization application. Oklahoma has responsibility for permitting treatment, storage, and disposal facilities within its borders. Also section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (''SAFETEA''), Public Law 109–59, 119 Statute 1144 (August 10, 2005) provides the State of Oklahoma opportunity to request approval from EPA to administer RCRA subtitle C in Indian Country and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). The State of Oklahoma did not apply for authorization to administer Indian Country in this authorization document. New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibition in Oklahoma including issuing permits, until the State is granted authorization to do so.

C. What is the effect of today's authorization decision?

The effect of this decision is that a facility in Oklahoma subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Oklahoma has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits and
- take enforcement actions after notice to and consultation with the State.

This action does not impose additional requirements on the regulated community because the regulations for which Oklahoma is being authorized by today's action is already effective under State law, and are not changed by today's action.

D. Why wasn't there a proposed rule before today's rule?

The EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if the EPA receives comments that oppose this action?

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified in this document. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. For what has Oklahoma previously been authorized?

Oklahoma initially received final Authorization on January 10, 1985, (49 FR 50362–50363) published December 27, 1984 to implement its base hazardous waste management program. We authorized the following revisions: Oklahoma received authorization for revisions to its program with publication dates: April 17, 1990 (55 FR 14280–14282), effective June 18, 1990; September 26, 1990 (55 FR 39274) effective November 27, 1990; April 2, 1991 (56 FR 13411–13413) effective June 3, 1991; September 20, 1991 (56 FR 47675–47677) effective November 19, 1991; September 29, 1993 (58 FR 50854–50856) effective November 29, 1993; October 12, 1993 (58 FR 52679–52682) effective December 13, 1993; October 7, 1994 (59 FR 51116–51122) effective December 21, 1994; January 11, 1995 (60 FR 2699–2702) effective April 27, 1995; October 9, 1996 (61 FR 52884–52886) effective December 23, 1996; Technical Correction March 14, 1997 (62 FR 12100–12101) effective March 14, 1997; September 22, 1998 (63 FR 50528–50531) effective November 23, 1998; March 29, 2000 (65 FR 16528–16532) effective May 30, 2000; May 10, 2000 (65 FR 29981–29985) effective June 10, 2000; January 2, 2001 (66 FR 28–33) effective March 5, 2001; April 9, 2003 (68 FR 17308–17311) effective June 9, 2003 and February 4, 2009 (74 FR 5994–6001); (66 FR 18927–18930) effective June 6, 2011, March 15, 2012 (77 FR 15273–15276) effective May 14, 2012 and effective July 29, 2013, May 29, 2013 (78 FR 32161–32165). The authorized Oklahoma RCRA program was incorporated by reference into the CFR published on December 9, 1998 (63 FR 67800–67834) effective February 8, 1999, August 26, 1999 (64 FR 46567–

46571) effective October 25, 1999, August 27, 2003 (68 FR 51488–51492) effective October 27, 2003, August 27, 2010 (75 FR 36546) June 28, 2010, May 17, 2012 (77 FR 29231–29235) effective July 16, 2012 and May 29, 2013 (78 FR 32161–32165) effective July 29, 2013. On June 28, 2013, Oklahoma submitted a final complete program revision application seeking authorization of its program revision in accordance with 40 CFR 271.21.

The Oklahoma Hazardous Waste Management Act (''OHWMA'') provides the ODEQ with the authority to administer the State Program, including the statutory and regulatory provisions necessary to administer the provisions of RCRA Cluster XXII, and designates the ODEQ as the State agency to cooperate and share information with EPA for purpose of hazardous waste regulation. The Oklahoma Environmental Quality Code (''Code''), at 27 A O.S. Section 2–7–101 et seq. establishes the statutory authority to administer the Hazardous waste management program under Subtitle C. The State regulations to manage the Hazardous waste management program is at Oklahoma Administrative Code (OAC) Title 252 Chapter 205.

The DEQ adopted applicable Federal hazardous waste regulations as amended through July 1, 2011 which became effective July 1, 2013. The provisions for which the State of Oklahoma is seeking authorization are documented in the Regulatory Documentation For Federal Provisions For Which The State Of Oklahoma Is Seeking Authorization, Federal Final Rules Published Between July 1, 2011 through June 30, 2012 RCRA Cluster XXII prepared on June 24, 2013.

The DEQ incorporates the Federal regulations by reference and there have been no changes in State or Federal laws or regulations that have diminished the DEQ's ability to adopt the Federal regulations by reference as set forth in the authorizations at 77 FR 22229 through 22232 effective May 14, 2012 for RCRA Cluster XXII. The Federal Hazardous waste regulations are adopted by reference by the DEQ at OAC 252:205, Subchapter 3. The DEQ does not adopt Federal regulations prospectively.

The State Oklahoma Hazardous waste program has in place the statutory authority and regulations for all required components of Hazardous Waste Technical Corrections and Clarification rule (Checklist 228) in RCRA Cluster XXII. These statutory and regulatory provisions were developed to ensure the State program is equivalent to, consistent with and no less stringent than the Federal Hazardous waste management program.

The Environmental Quality Act, at 27A O.S. Section 1–3–101(E), grants the Oklahoma Corporation Commission (''OCC'') authority to regulate certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain wastes generated by pipelines, bulk fuel sales terminals and certain tank farms, as well as underground storage tanks. To clarify areas of environmental jurisdiction, the ODEQ and OCC developed an ODEQ/OCC Jurisdictional Guidance Document to identify respective areas of jurisdiction. The current ODEQ/OCC Jurisdictional Guidance Document was amended and signed on January 27, 1999. The revisions to the State Program necessary to administer Cluster XXII will not affect the jurisdictional authorities of the ODEQ or OCC.

The ODEQ adopted RCRA Cluster XXII applicable federal hazardous waste regulations as amended through July 1, 2012 and became effective on July 1, 2013. The rules were also codified at OAC 252:205 et seq., Subchapter 3.

Pursuant to OAC 252:205–3–1, the State's incorporation of Federal regulations does not incorporate prospectively future changes to the incorporated sections of the 40 CFR, and no other Oklahoma law or regulation reduces the scope of coverage or otherwise affects the authority provided by these incorporated-by-reference provisions. Further, Oklahoma interprets these incorporated provisions to provide identical authority to the Federal provisions. Thus, OAC Title 252, Chapter 205 provides equivalent and no less stringent authority than the Federal Subtitle C program in effect July 1, 2012. The State of Oklahoma incorporates by reference the provisions of 40 Code of Federal Regulations (CFR) parts 124 of 40 CFR that are required by 40 CFR 271.14 (with the addition of 40 CFR 124.19(a) through (c), 124.19(e), 124.31, 124.32, 124.33 and subpart G); 40 CFR parts 260–268 [with the exception of 260.21, 262 subparts E and H, 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(1), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), 264.1080(g), 265.1(c)(4), 265.1(g)12), 265.149, 265.150, 265.1030(c), 265.1050(f) 265.1080(e), 265.1080(f), 265.1080(g), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g)]; 40 CFR part 270 [with the exception of 270.1(c)(2)(ix and 270.14(b)(18)]; 40 CFR part 273; and 40 CFR part 279.

The DEQ is the lead Department to cooperate and share information with the EPA for purpose of hazardous waste regulation.

Pursuant to 27A O.S. Section 2–7–104, the Executive Director has created the Land Protection Division (LPD) to be responsible for implementing the State Program. The LPD is staffed with personnel that have the technical background and expertise to effectively implement the provisions of the State program subtitle C Hazardous waste management program.

G. What changes are we approving In today's action?

On June 28, 2013, the State of Oklahoma submitted final complete program applications, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action that the State of Oklahoma's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. The State of Oklahoma revisions consist of regulations which specifically govern Federal Hazardous waste revisions promulgated between July 1, 2011 through June 30, 2012 which is in (RCRA Cluster XXII). Oklahoma requirements are included in a chart with this document.

Description of Federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority	Analogous state authority
1. Hazardous Waste Technical Corrections and Clarifications. (Checklist 228).	77 FR 22229–22232, May 14, 2012.	Oklahoma Statutes Title 27A Section 2–7–101 et seq., Oklahoma Hazardous Waste Management Act, as amended effective July 1, 2013; Oklahoma Administrative Code, Title 252, Chapter 205, as amended effective July 1, 2013.

H. Where are the revised State rules different from the Federal rules?

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who handles permits after the authorization takes effect?

Oklahoma will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Oklahoma is not yet authorized.

J. How does today's action affect Indian country (8 U.S.C. 1151) in Oklahoma?

Section 8 U.S.C. 1151 does not affect the State of Oklahoma because under section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (''SAFETEA''), Public Law 109–59, 119 Statute 1144 (August 10, 2005) provides the State of Oklahoma opportunity to request approval from EPA to administer RCRA subtitle C in Indian Country and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). However, the State of Oklahoma is not seeking authorization to administer authorization under RCRA Subtitle C in this FR document.

K. What Is codification and is the EPA codifying Oklahoma's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart LL for this authorization of Oklahoma's program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this **Federal Register** notice.

L. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. The reference to Executive Order 13563 (76 FR 3821, January 21, 2011) is also exempt from review under Executive orders 12866 (56 FR 51735, October 4, 1993). This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes preexisting requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). 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. The EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective October 28, 2014.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 5, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–20647 Filed 8–28–14; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1852

RIN 2700–AE08

NASA Federal Acquisition Regulation Supplement (NFS): Contractor Whistleblower Protections; Technical Amendments

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the NASA FAR Supplement (NFS) in order to make editorial changes.

DATES: *Effective:* August 29, 2014.

FOR FURTHER INFORMATION CONTACT: Leigh Pomponio via email at *leigh.pomponio@NASA.gov,* or (202) 358–0592.

SUPPLEMENTARY INFORMATION: An interim rule was published in the **Federal Register** on July 29, 2014 (79 FR 43956–43961), amending 48 CFR part 1852.

In order to correct certain elements in 48 CFR part 1852, this document makes editorial changes to the NFS.

List of Subject in 48 CFR Part 1852

Government procurement.

Cynthia Boots,

Alternate Federal Register Liaison.

Therefore, NASA amends 48 CFR part 1852 as set forth below:

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

1852.203–71 [Amended]

■ 2. Section 1852.203–71(a) is amended by removing ''1803.09'' and replacing it with ''1803.9''.

1852.216–90 [Amended]

■ 3. Section 1852.216–90 is amended by removing ''As prescribed in 216.307–70(g)'' and replacing it with ''As prescribed in 1816.307–70(g)''.

[FR Doc. 2014–20612 Filed 8–28–14; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic

CFR Correction

■ In Title 50 of the Code of Federal Regulations, Parts 600 to 659, revised as of October 1, 2013, on page 389, Appendix F to Part 622 is reinstated to read as follows:

Appendix F to Part 622—Specifications for Sea Turtle Mitigation Gear and Sea Turtle Handling and Release Requirements

A. *Sea turtle mitigation gear.*

1. *Long-handled line clipper or cutter.* Line cutters are intended to cut high test monofilament line as close as possible to the hook, and assist in removing line from entangled sea turtles to minimize any remaining gear upon release. NMFS has established minimum design standards for the line cutters. The LaForce line cutter and the Arceneaux line clipper are models that meet these minimum design standards, and may be purchased or fabricated from readily available and low-cost materials. One long-handled line clipper or cutter and a set of replacement blades are required to be onboard. The minimum design standards for line cutters are as follows:

(a) *A protected and secured cutting blade.* The cutting blade(s) must be capable of cutting 2.0–2.1 mm (0.078 in.–0.083 in.) monofilament line (400-lb test) or polypropylene multistrand material, known as braided or tarred mainline, and must be maintained in working order. The cutting blade must be curved, recessed, contained in a holder, or otherwise designed to facilitate its safe use so that direct contact between the cutting surface and the sea turtle or the user is prevented. The cutting instrument must be securely attached to an extended reach handle and be easily replaceable. One extra set of replacement blades meeting these standards must also be carried on board to replace all cutting surfaces on the line cutter or clipper.

(b) *An extended reach handle.* The line cutter blade must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the freeboard, or a minimum of 6 ft (1.83 m), whichever is greater. It is recommended, but not required, that the handle break down into sections. There is no restriction on the type of material used to construct this handle as long as it is sturdy and facilitates the secure attachment of the cutting blade.

2. *Long-handled dehooker for internal hooks.* A long-handled dehooking device is intended to remove internal hooks from sea turtles that cannot be boated. It should also be used to engage a loose hook when a turtle is entangled but not hooked, and line is being removed. The design must shield the barb of the hook and prevent it from re-engaging during the removal process. One long-handled device to remove internal hooks is required onboard. The minimum design standards are as follows:

(a) *Hook removal device.* The hook removal device must be constructed of approximately 3/16-inch (4.76 mm) to 5/16-inch (7.94 mm) 316 L stainless steel or similar material and have a dehooking end no larger than 1 7/8-inches (4.76 cm) outside diameter. The device must securely engage and control the leader while shielding the barb to prevent the hook from re-engaging during removal. It may not have any unprotected terminal points (including blunt ones), as these could cause injury to the esophagus during hook removal. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(b) *Extended reach handle.* The dehooking end must be securely fastened to an extended reach handle or pole with a minimum length equal to or greater than 150 percent of the freeboard, or a minimum of 6 ft (1.83 m), whichever is greater. It is recommended, but not required, that the handle break down into sections. The handle must be sturdy and strong enough to facilitate the secure attachment of the hook removal device.

3. *Long-handled dehooker for external hooks.* A long-handled dehooker is required for use on externally-hooked sea turtles that cannot be boated. The long-handled dehooker for internal hooks described in paragraph 2. of this Appendix F would meet this requirement. The minimum design standards are as follows:

(a) *Construction.* A long-handled dehooker must be constructed of approximately 3/16-inch (4.76 mm) to 5/16-inch (7.94 mm) 316 L stainless steel rod and have a dehooking end no larger than 1 7/8-inches (4.76 cm) outside diameter. The design should be such that a fish hook can be rotated out, without pulling it out at an angle. The dehooking end must be blunt with all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(b) *Extended reach handle.* The handle must be a minimum length equal to the freeboard of the vessel or 6 ft (1.83 m), whichever is greater.

4. *Long-handled device to pull an ''inverted V''.* This tool is used to pull a ''V'' in the fishing line when implementing the ''inverted V''; dehooking technique, as described in the document entitled ''Careful Release Protocols for Sea Turtle Release With Minimal Injury,'' for disentangling and dehooking entangled sea turtles. One long-handled device to pull an ''inverted V'' is required onboard. If a 6-ft (1.83 m) J-style dehooker is used to comply with paragraph 4. of this Appendix F, it will also satisfy this requirement. Minimum design standards are as follows:

(a) *Hook end.* This device, such as a standard boat hook, gaff, or long-handled J-style dehooker, must be constructed of stainless steel or aluminum. The semicircular or ''J'' shaped end must be securely attached to a handle. A sharp point, such as on a gaff hook, is to be used only for holding the

monofilament fishing line and should never contact the sea turtle.

(b) *Extended reach handle.* The handle must have a minimum length equal to the freeboard of the vessel, or 6 ft (1.83 m), whichever is greater. The handle must be sturdy and strong enough to facilitate the secure attachment of the gaff hook.

5. *Dipnet.* One dipnet is required onboard. Dipnets are to be used to facilitate safe handling of sea turtles by allowing them to be brought onboard for fishing gear removal, without causing further injury to the animal. Turtles must not be brought onboard without the use of a dipnet or hoist. The minimum design standards for dipnets are as follows:

(a) *Size of dipnet.* The dipnet must have a sturdy net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm) to accommodate turtles below 3 ft (0.914 m) carapace length. The bag mesh openings may not exceed 3 inches (7.62 cm) by 3 inches (7.62 cm). There must be no sharp edges or burrs on the hoop, or where it is attached to the handle. There is no requirement for the hoop to be circular as long as it meets the minimum specifications.

(b) *Extended reach handle.* The dipnet hoop must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the freeboard, or at least 6 ft (1.83 m), whichever is greater. The handle must be made of a rigid material strong enough to facilitate the sturdy attachment of the net hoop and be able to support a minimum of 100 lb (34.1 kg) without breaking or significant bending or distortion. It is recommended, but not required, that the extended reach handle break down into sections.

6. *Cushion/support device.* A standard automobile tire (free of exposed steel belts), a boat cushion, a large turtle hoist, or any other comparable cushioned elevated surface, is required for supporting a turtle in an upright orientation while the turtle is onboard. The cushion/support device must be appropriately sized to fully support a range of turtle sizes.

7. *Short-handled dehooker for internal hooks.* One short-handled device for removing internal hooks is required onboard. This dehooker is designed to remove ingested hooks from boated sea turtles. It can also be used on external hooks or hooks in the front of the mouth. Minimum design standards are as follows:

(a) *Hook removal device.* The hook removal device must be constructed of approximately 3/16-inch (4.76 mm) to 5/16-inch (7.94 mm) 316 L stainless steel, and must allow the hook to be secured and the barb shielded without re-engaging during the removal process. It must be no larger than 1 7/8-inches (4.76 cm) outside diameter. It may not have any unprotected terminal points (including blunt ones), as this could cause injury to the esophagus during hook removal. A sliding PVC bite block must be used to protect the beak and facilitate hook removal if the turtle bites down on the dehooking device. The bite block should be constructed of a 3/4-inch (1.91 cm) inside diameter high impact plastic cylinder (*e.g.,* Schedule 80 PVC) that is 4 to 6 inches (10.2 to 15.2 cm) long to allow for 5 inches (12.7 cm) of slide along the shaft. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(b) *Handle length.* The handle should be approximately 16 to 24 inches (40.64 cm to 60.69 cm) in length, with approximately a 4 to 6-inch (10.2 to 15.2-cm) long tube T-handle of approximately 1 inch (2.54 cm) in diameter.

8. *Short-handled dehooker for external hooks.* One short-handled dehooker for external hooks is required onboard. The short-handled dehooker for internal hooks required to comply with paragraph 7. of this Appendix F will also satisfy this requirement. Minimum design standards are as follows:

(a) *Hook removal device.* The dehooker must be constructed of approximately 3/16-inch (4.76 cm) to 5/16-inch (7.94 cm) 316 L stainless steel, and the design must be such that a hook can be rotated out without pulling it out at an angle. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(b) *Handle length.* The handle should be approximately 16 to 24 inches (40.64 to 60.69 cm) long with approximately a 5-inch (12.7 cm) long tube T-handle, wire loop handle or similar, of approximately 1 inch (2.54 cm) in diameter.

9. *Long-nose or needle-nose pliers.* One pair of long-nose or needle-nose pliers is required on board. Required long-nose or needle-nose pliers can be used to remove deeply embedded hooks from the turtle's flesh that must be twisted during removal or for removing hooks from the front of the mouth. They can also hold PVC splice couplings, when used as mouth openers, in place. Minimum design standards are as follows:

(a) *General.* They must be approximately 12 inches (30.48 cm) in length, and should be constructed of stainless steel material.

(b) [Reserved]

10. *Bolt cutters.* One pair of bolt cutters is required on board. Required bolt cutters may be used to cut hooks to facilitate their removal. They should be used to cut off the eye or barb of a hook, so that it can safely be pushed through a sea turtle without causing further injury. They should also be used to cut off as much of the hook as possible, when the remainder of the hook cannot be removed. Minimum design standards are as follows:

(a) *General.* They must be approximately 14 to 17 inches (35.56 to 43.18 cm) in total length, with approximately 4-inch (10.16 cm) long blades that are 2 1/4 inches (5.72 cm) wide, when closed, and with approximately 10 to 13-inch (25.4 to 33.02-cm) long handles. Required bolt cutters must be able to cut hard metals, such as stainless or carbon steel hooks, up to 1/4-inch (6.35 mm) diameter.

(b) [Reserved]

11. *Monofilament line cutters.* One pair of monofilament line cutters is required on board. Required monofilament line cutters must be used to remove fishing line as close to the eye of the hook as possible, if the hook is swallowed or cannot be removed. Minimum design standards are as follows:

(a) *General.* Monofilament line cutters must be approximately 7 1/2 inches (19.05 cm) in length. The blades must be 1 inch (4.45 cm) in length and 5/8 inches (1.59 cm) wide, when closed.

(b) [Reserved]

12. *Mouth openers/mouth gags.* Required mouth openers and mouth gags are used to open sea turtle mouths, and to keep them open when removing internal hooks from boated turtles. They must allow access to the hook or line without causing further injury to the turtle. Design standards are included in the item descriptions. At least two of the seven different types of mouth openers/gags described below are required:

(a) *A block of hard wood.* Placed in the corner of the jaw, a block of hard wood may be used to gag open a turtle's mouth. A smooth block of hard wood of a type that does not splinter (*e.g.* maple) with rounded edges should be sanded smooth, if necessary, and soaked in water to soften the wood. The dimensions should be approximately 11 inches (27.94 cm) by 1 inch (2.54 cm) by 1 inch (2.54 cm). A long-handled, wire shoe brush with a wooden handle, and with the wires removed, is an inexpensive, effective and practical mouth-opening device that meets these requirements.

(b) *A set of three canine mouth gags.* Canine mouth gags are highly recommended to hold a turtle's mouth open, because the gag locks into an open position to allow for hands-free operation after it is in place. These tools are only for use on small and medium sized turtles, as larger turtles may be able to crush the mouth gag. A set of canine mouth gags must include one of each of the following sizes: Small (5 inches) (12.7 cm), medium (6 inches) (15.24 cm), and large (7 inches) (17.78 cm). They must be constructed of stainless steel. The ends must be covered with clear vinyl tubing, friction tape, or similar, to pad the surface.

(c) *A set of two sturdy dog chew bones.* Placed in the corner of a turtle's jaw, canine chew bones are used to gag open a sea turtle's mouth. Required canine chews must be constructed of durable nylon, zylene resin, or thermoplastic polymer, and strong enough to withstand biting without splintering. To accommodate a variety of turtle beak sizes, a set must include one large (5 1/2–8 inches (13.97 cm-20.32 cm) in length), and one small (3 1/2–4 1/2 inches (8.89 cm–11.43 cm) in length) canine chew bones.

(d) *A set of two rope loops covered with protective tubing.* A set of two pieces of poly braid rope covered with light duty garden hose or similar flexible tubing each tied or spliced into a loop to provide a one-handed method for keeping the turtle's mouth open during hook and/or line removal. A required set consists of two 3-ft (0.91 m) lengths of poly braid rope (3/8-inch (9.52 mm) diameter suggested), each covered with an 8-inch (20.32 cm) section of 1/2 inch (1.27 cm) or 3/4 inch (1.91 cm) tubing, and each tied into a loop. The upper loop of rope covered with hose is secured on the upper beak to give control with one hand, and the second piece

of rope covered with hose is secured on the lower beak to give control with the user's foot.

(e) *A hank of rope.* Placed in the corner of a turtle's jaw, a hank of rope can be used to gag open a sea turtle's mouth. A 6-ft (1.83 m) lanyard of approximately 3/16-inch (4.76 mm) braided nylon rope may be folded to create a hank, or looped bundle, of rope. Any size soft-braided nylon rope is allowed, however it must create a hank of approximately 2–4 inches (5.08 cm–10.16 cm) in thickness.

(f) *A set of four PVC splice couplings.* PVC splice couplings can be positioned inside a turtle's mouth to allow access to the back of the mouth for hook and line removal. They are to be held in place with the needle-nose pliers. To ensure proper fit and access, a required set must consist of the following Schedule 40 PVC splice coupling sizes: 1 inch (2.54 cm), 1¼ inch (3.18 cm), 1½ inch (3.81 cm), and 2 inches (5.08 cm).

(g) *A large avian oral speculum.* A large avian oral speculum provides the ability to hold a turtle's mouth open and to control the head with one hand, while removing a hook with the other hand. The avian oral speculum must be 9-inches (22.86 cm) long, and constructed of 3/16-inch (4.76 mm) wire diameter surgical stainless steel (Type 304). It must be covered with 8 inches (20.32 cm) of clear vinyl tubing (5/16-inch (7.9 mm) outside diameter, 3/16-inch (4.76 mm) inside diameter), friction tape, or similar to pad the surface.

B. *Sea turtle handling and release requirements.* Sea turtle bycatch mitigation gear, as specified in paragraphs A.1. through 4. of this Appendix F, must be used to disengage any hooked or entangled sea turtles that cannot be brought onboard. Sea turtle bycatch mitigation gear, as specified in paragraphs A.5. through 12. of this Appendix F, must be used to facilitate access, safe handling, disentanglement, and hook removal or hook cutting of sea turtles that can be brought onboard, where feasible. Sea turtles must be handled, and bycatch mitigation gear must be used, in accordance with the careful release protocols and handling/release guidelines provided by NMFS and in accordance with the onboard handling and resuscitation requirements specified in § 223.206(d)(1)of this title.

1. *Boated turtles.* When practicable, active and comatose sea turtles must be brought on board, with a minimum of injury, using a dipnet as specified in paragraph A.5. of this Appendix F. All turtles less than 3 ft (.91 m) carapace length should be boated, if sea conditions permit.

(a) A boated turtle should be placed on a cushioned/support device, as specified in paragraph A.6. of this Appendix F, in an upright orientation to immobilize it and facilitate gear removal. Then, it should be determined if the hook can be removed without causing further injury. All externally embedded hooks should be removed, unless hook removal would result in further injury to the turtle. No attempt to remove a hook should be made if it has been swallowed and the insertion point is not visible, or if it is determined that removal would result in further injury. If a hook cannot be removed, as much line as possible should be removed from the turtle using monofilament cutters as specified in paragraph A.11. of this Appendix F, and the hook should be cut as close as possible to the insertion point before releasing the turtle, using bolt cutters as specified in paragraph A.10. of this Appendix F. If a hook can be removed, an effective technique may be to cut off either the barb, or the eye, of the hook using bolt cutters, and then to slide the hook out. When the hook is visible in the front of the mouth, a mouth-opener, as specified in paragraph A.12. of this Appendix F, may facilitate opening the turtle's mouth and a gag may facilitate keeping the mouth open. Short-handled dehookers for internal hooks, or long-nose or needle-nose pliers, as specified in paragraphs A.7. and A.8. of this Appendix F, respectively, should be used to remove visible hooks from the mouth that have not been swallowed on boated turtles, as appropriate. As much gear as possible must be removed from the turtle without causing further injury prior to its release. Refer to the careful release protocols and handling/release guidelines required in § 622.10(c)(1), and the handling and resuscitation requirements specified in § 223.206(d)(1) of this title, for additional information.

(b) [Reserved]

2. *Non-boated turtles.* If a sea turtle is too large, or hooked in a manner that precludes safe boating without causing further damage or injury to the turtle, sea turtle bycatch mitigation gear specified in paragraphs A.1. through 4. of this Appendix F must be used to disentangle sea turtles from fishing gear and disengage any hooks, or to clip the line and remove as much line as possible from a hook that cannot be removed, prior to releasing the turtle, in accordance with the protocols specified in § 622.10(c)(1).

(a) Non-boated turtles should be brought close to the boat and provided with time to calm down. Then, it must be determined whether or not the hook can be removed without causing further injury. All externally embedded hooks must be removed, unless hook removal would result in further injury to the turtle. No attempt should be made to remove a hook if it has been swallowed, or if it is determined that removal would result in further injury. If the hook cannot be removed and/or if the animal is entangled, as much line as possible must be removed prior to release, using a line cutter as specified in paragraph A.1. of this Appendix F. If the hook can be removed, it must be removed using a long-handled dehooker as specified in paragraphs A.2. and A.3. of this Appendix F. Without causing further injury, as much gear as possible must be removed from the turtle prior to its release. Refer to the careful release protocols and handling/release guidelines required in § 622.10(c)(1), and the handling and resuscitation requirements specified in § 223.206(d)(1) for additional information.

(b) [Reserved]

[FR Doc. 2014–20554 Filed 8–28–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140106011–4338–02]

RIN 0648–XD458

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Closure for the Common Pool Fishery

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

ACTION: Temporary rule; area closure.

SUMMARY: This action closes the Eastern U.S./Canada Area for Northeast multispecies common pool vessels for the remainder of fishing year 2014, through April 30, 2015. Based on recent data, the common pool fishery has caught 130 percent of its Eastern Georges Bank cod total allowable catch, triggering the regulatory requirement to close the area for the remainder of the fishing year. This action is intended to prevent further overage of the common pool's annual quota of Eastern Georges Bank cod.

DATES: This action is effective August 26, 2014, through April 30, 2015.

FOR FURTHER INFORMATION CONTACT: Liz Sullivan, Fishery Management Specialist, 978–282–8493.

SUPPLEMENTARY INFORMATION: Federal regulations at § 648.85(a)(3)(iv)(E) require the Regional Administrator to close the Eastern U.S./Canada Area when any individual total allowable catch (TAC) allocation for the area is projected to be caught. In such cases, the Eastern U.S./Canada Area (including any Special Access Programs (SAPs) that reside in this area) closes to all common pool vessels, i.e. Northeast (NE) multispecies limited access non-sector vessels and NE multispecies open access vessels. The fishing year 2014 (May 1, 2014, through April 30, 2015) common pool TAC for Eastern Georges Bank cod is 3.0 mt. Based on the most recent data and information, which include vessel trip reports, dealer-reported landings, and vessel monitoring system information, we have determined that 130 percent of the fishing year TAC was caught as of August 19, 2014. Because of the low catch limit and the rate at which a common pool vessel can harvest Eastern Georges Bank cod, it was not possible to initiate this action before the point that the fishing year TAC was exceeded.

Therefore, effective August 26, 2014, the Eastern U.S./Canada Area is closed for the remainder of the fishing year, through April 30, 2015, to all common pool vessels. Effective August 26, 2014, it is unlawful for a common pool vessel to declare into, enter, or fish in the Eastern U.S./Canada Area. This restriction does not apply to the groundfish trip of a common pool vessel that crossed the VMS demarcation line before August 26, 2014. The Eastern U.S./Canada Area will reopen to common pool vessels at the beginning of fishing year 2015, on May 1, 2015. Any overages of an Eastern Georges Bank TAC will be deducted from the following fishing year.

Weekly quota monitoring reports for the common pool fishery can be found on our Web site at: *http://www.nero.noaa.gov/ro/fso/MultiMonReports.htm.* We will continue to monitor common pool catch through vessel trip reports, dealer-reported landings, vessel monitoring system catch reports, and other available information and, if necessary, we will make additional adjustments to common pool management measures.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the 30-day delayed effectiveness period because it would be impracticable and contrary to the public interest.

The Eastern U.S./Canada Area closure is required by regulation in order to reduce the probability of the common pool fishery exceeding its TAC of Eastern Georges Bank cod, or if exceeded, reduce further overage of the TAC. Any overages of the common pool's TACs would undermine conservation objectives and trigger the implementation of accountability measures that would have negative economic impacts on common pool vessels. The data and information showing that Eastern Georges Bank cod is projected to have exceeded its TAC for the stock only became available recently. The time necessary to provide for prior notice and comment, and a 30-day delay in effectiveness, would prevent NMFS from implementing the necessary

Eastern U.S./Canada Area closure in a timely manner, which could undermine management objectives of the NE Multispecies Fishery Management Plan, and cause negative economic impacts to the common pool fishery.

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

Dated: August 26, 2014.

Alan D. Risenhoover,

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

[FR Doc. 2014–20649 Filed 8–26–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140220160–4692–02]

RIN 0648–BD99

Fisheries of the Northeastern United States; Northeast Skate Fishery; Framework Adjustment 2

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

ACTION: Final rule.

SUMMARY: NMFS approves and implements measures in Framework Adjustment 2 to the Northeast Skate Complex Fishery Management Plan, which was developed by the New England Fishery Management Council. The approved management measures include updated skate fishery specifications for the 2014–2015 fishing years and changes to skate reporting requirements. The action is necessary to update the Fishery Management Plan to be consistent with the best available scientific information, and improve management of the skate fisheries. The rule is expected to help conserve skate stocks, while maintaining economic opportunities for the skate fisheries.

DATES: This rule is effective September 29, 2014.

ADDRESSES: Copies of the framework, including the Environmental Assessment and Regulatory Impact Review (EA/RIR) and other supporting documents for the action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The framework is also accessible via the Internet at: *http://www.nero.noaa.gov.*

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of this rule. Copies of the FRFA and the Small Entity Compliance Guide are available from the Regional Administrator, Greater Atlantic Regional Fisheries Office, NMFS, 55 Great Republic Drive, Gloucester, MA 01930, and are available via the Internet at: *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council is responsible for developing management measures for skate fisheries in the northeastern U.S. through the Northeast Skate Complex Fishery Management Plan (Skate FMP). Seven skate species are managed under the Skate FMP: Winter; little; thorny; barndoor; smooth; clearnose; and rosette. The Council's Scientific and Statistical Committee reviews the best available information on the status of skate populations and makes recommendations on acceptable biological catch (ABC) for the skate complex (all seven species). This recommendation is then used as the basis for catch limits and other management measures for the skate fisheries.

This final rule approves and implements measures contained in Framework Adjustment 2 to the Skate FMP. The Council developed Framework 2 to update the skate fishery specifications (i.e., annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and possession limits) for fishing years 2014 and 2015. Framework 2 also includes adjustments to reporting requirements for skate vessels and dealers. A proposed rule to implement the measures contained in Framework 2 published in the **Federal Register** on May 21, 2014 (79 FR 29154), with public comments accepted through June 20, 2014. Details concerning the development of Framework 2 and the proposed measures were contained in the preamble of the proposed rule and are not repeated here.

Final Measures

2014–2015 Specifications

Based upon the recommendations of the Council, the Skate ABC and associated catch limits are being reduced approximately 30 percent from 2013 levels. The catch reduction is largely based on declines in trawl survey biomass for the more abundant little and winter skate species (refer to the EA for more details; see **ADDRESSES**). NMFS is implementing the following specifications for the skate fishery for the 2014–2015 fishing years:

1. Skate ABC and ACL of 78.218 million lb (35,479 mt);

2. ACT of 58.663 million lb (26,609 mt);

3. TAL of 36.123 million lb (16,385 mt) (the skate wing fishery is allocated 66.5 percent of the TAL (24.022 million lb (10,896 mt)) and the skate bait fishery is allocated 33.5 percent of the TAL (12.101 million lb (5,489 mt)), divided into three seasons according to the regulations at § 648.322);

4. Status quo skate bait possession limit, as defined in § 648.322(c): 25,000 lb (11,340 kg) whole weight per trip for vessels carrying a valid Skate Bait Letter of Authorization; and

5. Status quo skate wing possession limits, as defined in § 648.322(b): 2,600 lb (1,179 kg) wing weight per trip for Season I (May 1 through August 31), and 4,100 lb (1,860 kg) wing weight per trip for Season II (September 1 through April 30) for vessels fishing on a Northeast Multispecies, Monkfish, or Scallop Day-at-Sea. The Northeast Multispecies Category-B Day-at-Sea possession limit remains at 220 lb (100 kg) wing weight per trip, and the non-Day-at-Sea incidental possession limit remains at 500 lb (227 kg) wing weight per trip.

NMFS is not implementing any changes to the existing in-season incidental possession limit trigger points (85 percent in the wing fishery, 90 percent in the bait fishery). While these reductions in catch limits are expected to address the current overfishing status for winter skates (not overfished), the Council intends to develop a new skate action during 2014 to address overfishing and rebuild overfished thorny skates.

Vessel and Dealer Reporting Requirements

A long-term goal of the Skate FMP has been to improve species-specific skate catch information. Through this final rule, fishing vessels and dealers will no longer be permitted to report ''unclassified skate,'' which hinders single-species assessment and management efforts. Skate bait vessels and dealers are now required to report landings by species from among the following options: Winter skate; little skate; little/winter skate (unknown mix of these two species); barndoor skate; smooth skate; thorny skate; clearnose skate; or rosette skate. Skate wing vessels and dealers are now required to report landings by species from among these options: Winter skate; barndoor skate; thorny skate; or clearnose skate. These reporting options have always been available to vessels and dealers, but they have been uncommonly used.

Based upon NMFS port sampling data, over 98 percent of skate wing fishery landings are composed of winter skate, so it is expected that most of the ''unclassified'' skate wing landings would translate into ''winter skate'' landings. Similarly, approximately 90 percent of skate bait landings are composed of little skate, with the remainder being largely comprised of juvenile winter skates. Therefore, ''unclassified'' landings in the bait fishery are expected to translate into ''little skate'' or ''little/winter skate'' landings. While in most circumstances it is unlawful to retain, land, or possess barndoor, thorny, and smooth skates, vessels and fish dealers must still report the unauthorized landing of these species when they occur. Outreach, education, and continued monitoring of landings by NMFS will aid fishing vessels and dealers with this transition.

Comments and Responses

Only a single comment was received on the proposed rule. No changes were made to the final rule as a result of the comment.

Comment: A marine conservation organization commented that it was largely supportive of the proposed skate fishery specifications, but suggested that more should be done to rebuild the overfished thorny skate. Additionally, they suggested that reporting options for all seven skate species should be maintained in the skate wing fishery (rather than just for the four species that are considered of marketable size for the wing market).

Response: NMFS and the Council acknowledge the overfished condition of thorny skate, and the Council is expected to start developing a new action to address thorny skate rebuilding later this year. Thorny skate is already a prohibited species, and potential additional measures to address thorny skate rebuilding could not be analyzed in time to be considered within Framework 2. With respect to the reporting options, the Council recommended, and NMFS agrees, that little, smooth, and rosette skate reporting options are not necessary in the wing fishery at this time, because those species are not currently landed in the skate wing fishery due to their small size. If market conditions change, reporting options for those species can be added in the future.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has made a determination that this rule is consistent with the Skate FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This action has been determined to be not significant for the purpose of Executive Order (E.O.) 12866.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has prepared a Final Regulatory Flexibility Analysis (FRFA) in support of this action. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' response to those comments, relevant analyses contained in the action and its EA, and a summary of the analyses completed to support the action in this rule. A copy of the analyses and the EA are available from the Council (see **ADDRESSES**). A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in the preamble to the proposed rule and this final rule and is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

Only one comment was received on the proposed rule. For a summary of the comment, and NMFS' response, see the Comments and Responses section above. The comment did not raise any issues or concerns related to the IRFA or the economic impacts of the rule more generally, and no changes were made to the rule as a result of the comment.

Description and Estimate of Number of Small Entities To Which the Rule Would Apply

This rule will impact fishing vessels, including commercial fishing entities. In 2012, there were 2,265 vessels that held an open access skate permit. However, not all of those vessels are active participants in the fishery. If two or more vessels have identical owners, these vessels should be considered to be part of the same firm, because they may have the same owners. According to the Small Business Administration (SBA), firms are classified as finfish or shellfish firms based on the activity which they derive the most revenue. Using the $5.5M cutoff for shellfish firms (NAICS 114112) and the $20.5M cutoff for finfish firms (NAICS 114111), there are

526 active fishing firms, of which 519 are small entities and 7 are large entities. On average, for small entities, skate is responsible for a small fraction of landings, and active participants derive a small share of gross receipts from the skate fishery (approximately 34 percent in 2011 and 2012 fishing years came from skate revenue).

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This rule does not duplicate, overlap, or conflict with other Federal rules.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

During 2012, total revenues from skate landings were valued at approximately $6.6 million. The 2012 data are representative of an average-landings skate year, whereas the 2011 data are representative of a recent high-landings skate year. Compared to the no action alternative, the Preferred Alternative's reduction in the skate TALs (30 percent) could reduce potential annual skate revenues. However, the fishing year 2012 and 2013 skate landings were below the TAL implemented by this action, suggesting that it is unlikely that potential revenue losses would be directly commensurate with the TAL reduction. If skate landings in 2014 and 2015 are comparable to those observed in 2012 and 2013, then the skate fishery may experience no loss of skate revenue, but may actually come closer to fully harvesting the available amount of landings.

The preferred (status quo) skate wing and bait possession limit alternatives were selected because they have a high likelihood of providing a consistent rate of skate landings for the entire fishing year, while likely achieving 100 percent of the respective TALs. Alternatives with lower possession limits (one alternative in each fishery: 1,500 lb (680 kg)/2,400 lb (1,089 kg) in the wing fishery; 20,000 lb (9,072 kg) in the bait fishery) would increase the likelihood of not achieving the proposed TAL by the end of the year, resulting in losses of potential skate revenues. A single alternative for a higher skate wing possession limit (5,000 lb (2,268 kg)) was not preferred because it was projected to reach the in-season incidental possession limit trigger point (85 percent of the TAL) early in the fishing year, effectively closing the directed skate wing fishery for part of the year, which would result in distributional shifts of benefits from late-season harvesters to summer harvesters.

Changes to skate vessel and dealer reporting requirements are administrative measures, and the preferred and no action alternatives have no associated economic impacts. Vessels and dealers are already required to report the skates that they catch/purchase.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as small entity compliance guide was prepared. Copies of this final rule are available from the Greater Atlantic Regional Fisheries Office, and the guide, i.e., permit holder letter, will be sent to all holders of permits for the skate fishery. The guide and this final rule will be available upon request, and posted on the Greater Atlantic Regional Fisheries Office's Web site at *www.nero.noaa.gov.*

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 25, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.7, revise paragraphs (a)(1)(iii) and (b)(1)(iii) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

(a) * * *

(1) * * *

(iii) *Dealer reporting requirements for skates.* In addition to the requirements under paragraph (a)(1)(i) of this section, dealers shall report the species of skates received as specified in this paragraph. Species of skates received as bait shall be identified according to the following categories: Winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, and rosette skate. Species of skates received as wings (or other product forms not used for bait) shall be identified according to the following categories: Winter skate, barndoor skate, thorny skate, and clearnose skate. NMFS will provide dealers with a skate species identification guide.

* * * * *

(b) * * *

(1) * * *

(iii) *Vessel reporting requirements for skates.* In addition to the requirements under paragraph (b)(1)(i) of this section, the owner or operator of any vessel issued a skate permit shall report the species of skates landed as specified in this paragraph. Species of skates landed for bait shall be identified according to the following categories: Winter skate, little skate, little/winter skate, barndoor skate, smooth skate, thorny skate, clearnose skate, and rosette skate. Species of skates landed as wings (or other product forms not used for bait) shall be identified according to the following categories: Winter skate, barndoor skate, thorny skate, and clearnose skate. Discards of skates shall be reported according to two size classes, large skates (greater than or equal to 23 inches (58.42 cm) in total length) and small skates (less than 23 inches (58.42 cm) in total length). NMFS will provide vessel owners or operators that intend to land skates with a skate identification guide to assist in this data collection program.

* * * * *

[FR Doc. 2014–20687 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD473

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

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Greenland turbot in the Bering Sea subarea of the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2014 initial total allowable catch (ITAC) of Greenland turbot in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 2014, through 2400 hrs, A.l.t., December 31, 2014. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 12, 2014.

ADDRESSES: You may submit comments on this document, identified by 2013–0152, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0152,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for Greenland turbot in the Bering Sea subarea of the BSAI under § 679.20(d)(1)(iii) on May 1, 2014 (79 FR 22885, April 25, 2014).

NMFS has determined that as of August 22, 2014, approximately 700 metric tons of Greenland turbot ITAC remains in the Bering Sea subarea of the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2014 ITAC of Greenland turbot in the Bering Sea subarea of the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Greenland turbot in the Bering Sea subarea of the BSAI. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Greenland turbot by vessels in the Bering Sea subarea of the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for Greenland turbot by vessels in the Bering Sea subarea of the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 22, 2014.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for Greenland turbot by vessels in the Bering Sea subarea of the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 12, 2014.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 25, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–20538 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 79, No. 168

Friday, August 29, 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

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS–2014–0032]

RIN 0579–AD92

Importation of Beef From a Region in Argentina

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing the importation of certain animals, meat, and other animal products to allow, under certain conditions, the importation of fresh (chilled or frozen) beef from a region in Argentina located north of Patagonia South and Patagonia North B, referred to as Northern Argentina. Based on the evidence in a recent risk assessment, we believe that fresh (chilled or frozen) beef can be safely imported from Northern Argentina provided certain conditions are met. This proposal would provide for the importation of beef from Northern Argentina into the United States while continuing to protect the United States against the introduction of foot-and-mouth disease.

DATES: We will consider all comments that we receive on or before October 28, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0032.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0032, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0032* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Silvia Kreindel, Senior Staff Veterinarian, Regionalization Evaluation Services, National Import Export Services, Veterinary Services, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 851–3313.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products into the United States to prevent the introduction of various diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, classical swine fever, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations contains criteria for recognition by the Animal and Plant Health Inspection Service (APHIS) of foreign regions as free of rinderpest or free of both rinderpest and FMD. Section 94.11 restricts the importation of ruminants and swine and their meat and certain other products from regions that are declared free of rinderpest and FMD but that nonetheless present a disease risk because of the regions' proximity to or trading relationships with regions affected by rinderpest or FMD. Regions APHIS has declared free of FMD and/or rinderpest, and regions declared free of FMD and rinderpest that are subject to the restrictions in § 94.11, are listed on the APHIS Web site at *http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml.*

APHIS considers rinderpest or FMD to exist in all regions of the world not listed as free of those diseases on the Web site. On June 26, 1997, we published in the **Federal Register** a final rule (62 FR 34385–34394, Docket No. 94–106–5) allowing, under certain conditions, the importation of fresh (chilled or frozen) beef from Argentina. These conditions were laid out in § 94.21 of the regulations. However, on March 12, 2001, Argentina reported to the World Organization for Animal Health (OIE) and the United States that they had detected an outbreak of FMD in a herd of 300 young bulls in the Province of Buenos Aires. Argentina's Servicio Nacional de Sanidad y Calidad Agroalimentario (SENASA) subsequently reported the spread of FMD to 15 of the country's 23 Provinces. In an interim rule published in the **Federal Register** on June 4, 2001 (66 FR 29897–29899, Docket No. 01–032–1), and effective retroactively to February 19, 2001, we removed § 94.21 and removed Argentina from the list in § 94.1 of regions declared to be free of both rinderpest and FMD. APHIS adopted the interim rule without change as a final rule in a document published in the **Federal Register** on December 11, 2001 (66 FR 63911, Docket No. 01–032–2). Although there has not been a major outbreak of FMD since 2001/2002, we do not consider Northern Argentina to be free of FMD because of Argentina's vaccination program in that region.

With few exceptions, the regulations prohibit the importation of fresh (chilled or frozen) meat of ruminants or swine that originates in or transits a region where FMD is considered to exist. One such exception is beef and ovine meat [1] from Uruguay, which conducts FMD vaccinations of cattle. The regulations allow the importation of fresh beef and ovine meat from Uruguay into the United States provided that the following additional conditions have been met:

- The meat is beef or ovine meat from animals born, raised, and slaughtered in Uruguay.
- FMD has not been diagnosed in Uruguay within the previous 12 months.
- The meat comes from bovines or sheep that originated from premises where FMD had not been present during the lifetime of any bovines or sheep slaughtered for the export of beef and ovine meat to the United States.
- The meat comes from bovines or sheep that were moved directly from the premises of origin to the slaughtering

[1] The provisions allowing the importation of ovine meat from Uruguay were added in a final rule published in the **Federal Register** (78 FR 68327–68331) on November 14, 2013, and effective on November 29, 2013.

establishment without any contact with other animals.

- The meat comes from bovines or sheep that received ante-mortem and post-mortem veterinary inspections, paying particular attention to the head and feet, at the slaughtering establishment, with no evidence found of vesicular disease.
- The meat consists only of bovine or ovine parts that are, by standard practice, part of the animal's carcass that is placed in a chiller for maturation after slaughter. The bovine and ovine parts that may not be imported include all parts of the head, feet, hump, hooves, and internal organs.
- All bone and visually identifiable blood clots and lymphoid tissue have been removed from the meat.
- The meat has not been in contact with meat from regions other than those listed in the regulations as free of rinderpest and FMD.
- The meat comes from carcasses that were allowed to maturate at 40 to 50 °F (4 to 10 °C) for a minimum of 24 hours after slaughter and that reached a pH of below 6.0 in the loin muscle at the end of the maturation period. Measurements for pH must be taken at the middle of both *longissimus dorsi* muscles. Any carcass in which the pH does not reach less than 6.0 may be allowed to maturate an additional 24 hours and be retested, and, if the carcass still has not reached a pH of less than 6.0 after 48 hours, the meat from the carcass may not be exported to the United States.
- An authorized veterinary official of the Government of Uruguay certifies on the foreign meat inspection certificate that the above conditions have been met.
- The establishment in which the bovines and sheep are slaughtered allows periodic on-site evaluation and subsequent inspection of its facilities, records, and operations by an APHIS representative.

In response to a request from the Government of Argentina that we reconsider our decision to prohibit the importation of fresh (chilled or frozen) beef into the United States from Northern Argentina in light of improvements Argentina has made in its FMD detection and eradication procedures, we conducted a risk analysis of that region, which can be viewed on the Internet on the Regulations.gov Web site or in our reading room.[2] For the risk analysis, we evaluated information provided by SENASA in accordance with § 92.2 regarding the country's FMD status, reviewed published scientific literature, and conducted five site visits to the proposed exporting region. We concluded that Argentina has infrastructure and emergency response capabilities adequate to effectively contain, eradicate, and report FMD in the event of an outbreak in a timely manner. We further concluded that Argentina is able to comply with U.S. import restrictions on the specific products from affected areas. Based on the evidence documented in our recent risk assessment, we believe that fresh (chilled or frozen) beef can be safely imported from Northern Argentina, provided certain conditions are met. Accordingly, we are proposing to amend the regulations in § 94.29 to allow the importation of fresh beef from Northern Argentina. Under this proposed rule, fresh beef from Northern Argentina would be subject to the same import conditions imposed on fresh beef and ovine meat from Uruguay.

In this proposed rule, we are also giving notice that we would add Argentina to the list of regions that we recognize as free of rinderpest, which can be viewed at *http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/importexport?1dmy&urile=wcm%3apath%3a/aphis_content_library/sa_our_focus/sa_animal_health/sa_import_into_us/sa_entry_requirements/ct_rinderpest.* Historically, rinderpest virus has never become established in North America, Central America, the Caribbean Islands, or South America.

Miscellaneous

Our proposed addition of the exporting region of Northern Argentina to the regulations in § 94.29 necessitates a few minor editorial changes to § 94.1, where, currently, reference is made to the importation of fresh beef and ovine meat from Uruguay under § 94.29.

Risk Analysis

Drawing on data submitted by the Government of Argentina and observations from our site visits to the region under consideration, we have conducted a risk analysis of the animal health status of that region relative to FMD. Our risk analysis was conducted according to the eight factors identified in § 92.2, ''Application for recognition of the animal health status of a region'': The scope of the evaluation being requested, veterinary control and oversight, disease history and vaccination practices, livestock demographics and traceability, epidemiological separation from potential sources of infection, surveillance, diagnostic laboratory capabilities, and emergency preparedness and response.[3]

A summary evaluation of each factor is discussed below. Based on our analysis of these factors, we have determined that fresh (chilled or frozen) beef can be safely imported into the United States from Northern Argentina.

Scope of the Evaluation Being Requested

We conducted our risk analysis in response to an official request from Argentina that APHIS allow the importation of fresh (chilled or frozen) beef into the United States from a region in Argentina located north of Patagonia South and Patagonia North B, referred to as Northern Argentina. Given the history of FMD in Argentina and the fact that Argentina vaccinates its cattle population in most Provinces against FMD, APHIS conducted this risk analysis to evaluate the potential for FMD introduction and establishment through importation of beef from Northern Argentina. Data and background information were obtained from Argentine animal health officials. Much of the supporting information for this analysis consists of records obtained from SENASA. In addition, APHIS conducted five site visits to Argentina in 2003, 2005, 2006, 2009, and 2013 to verify and complement the information provided by Argentina.

Veterinary Control and Oversight

At the time of the 2001 outbreak detailed above, epidemiological investigations revealed areas in SENASA's veterinary controls and oversight that were in need of improvement. As a result, SENASA was reorganized. The new structure was intended to increase the efficiency and effectiveness of the existing system. Issues addressed included centralization of command and control of animal health programs, enhancements in the internal monitoring and

[2] Instructions on accessing Regulations.gov and information on the location and hours of the reading room may be found at the beginning of this document under **ADDRESSES**. You may also request paper copies of the risk analysis by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

[3] Prior to 2012, § 92.2(b) listed 11 factors. In 2012, APHIS consolidated the 11 factors into 8 in order to simplify the regulations and facilitate the application process. Since the evaluation of the proposed exporting region of Argentina began before the consolidation, however, the risk assessment follows the 11-factor format. The topics addressed by the 11 factors are encapsulated in the 8. Appendix II of the risk assessment describes the similarities between the 8 and 11 factors. Observations and information collected during the site visits were considered in the risk assessment as well.

communications, improved compliance with international standards and certification requirements, and an increased emphasis on border controls.

APHIS reviewed Argentina's FMD control and eradication program during our site visits in 2003, 2005, 2006, 2009, and 2013, and concluded that the program is effective at the local and national levels. We concluded that SENASA could detect disease quickly, limit its spread, and report it promptly.

APHIS considers that SENASA has sufficient legal authority to carry out official control, eradication, and quarantine activities. SENASA has a system of official veterinarians and support staff in place for carrying out field programs and for import controls. Field activities are coordinated through the national animal health office. Review of veterinary infrastructure with SENASA officials confirmed the presence of a system adequate for rapid detection and reporting of FMD and for carrying out surveillance and eradication programs. Field offices appeared to be appropriately staffed for the regions covered. The technical infrastructure is adequate, and advanced technologies are utilized in conducting several animal health programs, including the FMD program. Import controls are sufficient to protect international borders at principal crossing points, and sufficient controls exist to prevent the introduction of international waste into the country. Field personnel appeared to be adequately trained in FMD detection and control or to have had experience dealing with epidemiological investigations during FMD outbreaks. It is expected that they would suspect FMD if they were to see clinical signs compatible with the disease. With regard to indemnity procedures, we concluded that adequate funds are available to compensate owners for depopulated animals and that indemnity provisions can be extended to all animals potentially exposed to FMD, not only those confirmed as infected. Generally, we were favorably impressed with the census information, coverage of premises in the export region, the recordkeeping for individual premises, the control of vaccination, and the movement controls documented at the local level.

Disease History and Vaccination Practices

Outbreaks of FMD occurred in Northern Argentina in 2000/2001, with isolated instances occurring in 2003 and 2006. In the course of evaluating the potential disease risk posed by importation of fresh (chilled or frozen) beef into the United States from the export region, we did not detect any evidence to suggest that active outbreaks of FMD exist in the proposed exporting region.

Vaccination of cattle is mandatory in the proposed export region (except for the Patagonia North A region and the summer pastures (zona veranadas) of Calingasta Valley in the Province of San Juan). Other susceptible species are vaccinated only in strategic areas (e.g., the borders with Paraguay and Bolivia due to the disease status of those countries) and emergency situations. Local SENASA veterinarians certify, control, and audit the vaccination campaigns. Further, local, regional, and central SENASA services are responsible for setting vaccination schedules, which are determined using a regionalization method in order to account for differing ecological features, production types, and animal movement and flow. Vaccination coverage was reported to range between 98.9 percent and 100 percent in the proposed export region, with vaccination rates at 100 percent for the 2012 campaign that APHIS reviewed.

The vaccine used is an inactivated, trivalent, oil-based vaccine. All FMD vaccines produced or used in Argentina must be tested for quality and safety by the official SENASA laboratory. Quality control tests of each batch of the vaccine are conducted in the diagnostic laboratory in Buenos Aires and strictly follow international standards as set forth by the OIE. All vials are identified with technical and manufacturer brand labels, a sequential number, and an official stamp stating the series and the expiration date. Trucks used for transportation of the vaccine are equipped with temperature sensors to ensure a cold chain during transportation. A cold chain ensures that the vaccine is kept at the temperature specified by its manufacturer as necessary to maintain its viability and efficacy on a continuous basis throughout the shipping process.

We concluded that Argentina conducts its FMD vaccine production programs appropriately and in accordance with international standards. There is a system of controls to ensure compliance with vaccination calendars through matching vaccination records to movement permits and census data, and through field inspections. There is also a system in place for levying fines for noncompliance.

Livestock Demographics and Traceability

Cattle production is the primary livestock production system in Argentina. The domestic livestock population consists of approximately 57 million head of cattle, 13 million sheep, 2.3 million goats, and 2.3 million pigs. Of these, approximately 98 percent of the cattle population and premises are located within the proposed export area.

We did not identify significant risk pathways that would cause us to consider commercial operations in the proposed export region as a likely source for introducing FMD into the United States. The larger commercial operations are likely to be the source of beef exports from the export region. Based on its review of the information, APHIS considers the beef industry in the export region to be well-organized and committed to the production of quality product and to preventing FMD outbreaks.

Argentina has an efficient and effective traceability system, which includes a compulsory national individual identification system for cattle being exported to different countries, including the European Union (EU). Individual identification is unique and permanent. Since the process by which meat is certified for export to the EU is identical to the process we are proposing here, Argentinean inspectors have experience and training in the types of procedures that would be necessary for export to the United States. The use of this national identification system enhances Argentina's ability to certify the origin of animals entering the export channels.

We note that the auction system in the country is well organized and tightly controlled by the official veterinary service. However, there is no evidence to suggest that major movements of animals into export channels occur through the auction system. Instead, bovines destined for export to the EU are shipped directly from the farm to the exporting slaughter facility.

Adequate controls and inspection measures exist at slaughter facilities in Argentina. Ante-mortem and post-mortem inspections are carried out satisfactorily. APHIS evaluated pH controls, maturation, and deboning procedures at three plants in the proposed export zone that export to the EU and elsewhere. Every carcass destined for the EU is tested to ensure that the pH is not greater than 5.9, which is the EU requirement. If greater, the carcass is diverted to local consumption. APHIS examined maturation records and verified actual

rejected and approved seals. APHIS considers pH testing and calibration of pH meters to be critical mitigation measures in assessing the risk of importing the FMD virus in beef from Northern Argentina.

The biosecurity measures applied at the facilities APHIS visited were adequate, and there is a high level of awareness of and compliance with these measures. In addition, processing for slaughter facilities are under adequate official control and inspection.

We concluded that Argentina has adequate control of inspection activities in slaughter facilities and can certify compliance with our import requirements. A comparable system for control of commercial shipments of fresh and frozen beef under similar conditions to the EU also exists and is considered adequate to control the specific conditions for exporting the commodity under consideration.

Epidemiological Separation From Potential Sources of Infection

Northern Argentina is bordered by the Atlantic Ocean and shares land borders with Bolivia, Brazil, Chile, Paraguay, Uruguay, and the Province of Río Negro, Argentina. The Province of Río Negro, Argentina, is located in ''Patagonia North B,'' which is an FMD surveillance area situated to the south of Northern Argentina. The most recent outbreak of FMD in Patagonia North B occurred in 1994. APHIS does not consider the countries of South America to be FMD-free, with the exception of Chile. Outbreaks have occurred in Uruguay and Paraguay, both countries that had been classified by the OIE as ''free without vaccination'' or ''free with vaccination'' prior to the outbreaks. FMD has not been eradicated from Colombia, Bolivia, Ecuador, Venezuela, or Peru.

There is a history of introduction of disease into Argentina from neighboring countries. According to Argentinean officials, illegal movement of animals from neighboring countries as well as mechanical transmission of the virus resulted in the introduction of the disease into Argentina prior to the 2001 outbreak discussed previously. APHIS concluded that as long as FMD is endemic in the overall region in South America, there is a risk of reintroduction from adjacent areas into the proposed exporting region.

Domestic movement controls within Argentina are stringent. SENASA requires that all cattle owners identify their animals with a unique animal identification number, which is kept with the cattle via ear tags. Sheep are not required to be individually identified; however, in the event the farm is approved for export to the EU, premises identification is required, either by ear tag, which includes the unique identification number of the farm, or ear notch. There is a system of permits in place to control animal movement, which works well at the local level. Movement controls are linked to vaccination records, and vaccination coverage in the export region evaluated by APHIS is high, as noted above.

There is good cooperation between Argentine Federal agencies and their international counterparts at land border crossings. Argentina is separated from most of Chile by the Andes Mountains and operates a joint surveillance program for monitoring animal movements across the border with the Chilean government. The OIE recognizes Chile as FMD-free without vaccination and, as a result, SENASA does not consider the Chilean border a high-risk region. The Brazilian border is also considered by SENASA to be a low-risk region, subject to a joint FMD surveillance program with the Brazilian government.

SENASA has identified the Paraguayan and Bolivian borders as the most vulnerable for the potential introduction of FMD into Argentina. As a result, those areas have received enhanced support from SENASA in the form of increased surveillance and border control activities. Agreements are also in place between SENASA and its counterparts in Paraguay and Bolivia for such coordinated border control activities as vaccinations, surveillance, animal census, education, and animal identification.

Movement controls at international land checkpoints as well as movement control measures and biosecurity at airports and seaports appear to be adequate.

During site visits, APHIS attempts to target the riskiest border crossings (and other areas) as an example of ''maximized risk scenario,'' in order to address similar, but theoretically lower, risks in the remainder of the export region. APHIS assumes that if the riskiest pathways are sufficiently mitigated, the overall spectrum of risk issues should be acceptable. Using this assumption and visiting the areas of highest risk in the proposed export region, APHIS concluded that movement control measures for live animals are relatively robust at both domestic and international checkpoints.

Surveillance

The animal health service in Argentina has a surveillance system that covers all national territory. All official service field staff, community participants, and private sector veterinarians are trained and required to look for signs of vesicular diseases (e.g., excessive salivation, difficulty walking, etc.). If FMD is suspected, it must be immediately reported to the local unit or to the veterinary authority that would notify the local unit. Cattle are inspected every 6 months by vaccinators and official veterinarians, when the bovines are gathered in corrals for vaccination. Other susceptible species are not vaccinated except for the area located 25 kilometers south of the Argentina/Bolivia and Argentina/Paraguay border, where all susceptible species are vaccinated twice a year. Animals are individually inspected for signs of vesicular disease by personnel from the official service before slaughtering. Other body parts, including the tongue and feet, are examined during post-mortem inspection. All animals coming into fairs, auctions, or exhibitions are clinically inspected by the official veterinarians. The clinical inspection of animals in transit is carried out at checkpoints and border control points by official personnel. The conditions under which animals move are based on the animal health status of the Province of origin or the country sharing borders with the export region.

Argentina has a two-phase surveillance system that effectively uses active and passive surveillance. Phase I relies on active surveillance to document freedom from disease. Active surveillance is carried out by means of targeted sero-epidemiological surveys in specific ''high-risk'' areas within the zone that SENASA considers FMD-free. The surveys aim to prove that the zone remains free of viral activity. Serological testing is also conducted whenever there is suspicion of the disease. Phase II begins once freedom from infection has been established. The main goals in this phase are to prevent the reintroduction of the disease, maintain good sanitary conditions, and provide technical grounds to demonstrate the continual absence of disease and viral activity in the zone. Passive surveillance is the primary type employed in Phase II, although active surveillance is also used. Passive surveillance activities include observations made during: (1) Animal movement control activities and trade of animal products, (2) farm inspections, (3) slaughterhouse inspection, and (4) inspections during livestock fairs. Data on the above activities are collected annually. Passive surveillance takes advantage of the

community structure in Argentina and relies heavily on the participation of the community. SENASA officials have carefully and methodically thought about each component of their surveillance system, and their two-stage cluster sampling design is appropriate, efficient, scientifically valid, and simple to implement. All technical aspects of that design were addressed properly.

Observations made during recent site visits to Argentina led APHIS to conclude that the Argentine authorities were particularly effective in their FMD educational campaigns and that the country's FMD eradication strategy and surveillance practices have been fully communicated, understood, and embraced by all animal health officials in the country. This was made evident by the high degree of consistency in implementation and execution of the program at every local veterinary unit visited. In addition, the serological surveillance plan, updated in 2013, appears well designed and executed.

Diagnostic Laboratory Capabilities

SENASA has one laboratory, located in Buenos Aires, under its direct supervision that performs diagnostic tests for FMD and other vesicular diseases. Based on laboratory and site visits conducted in 2003, 2005, 2006, 2009, and 2013, we concluded that Argentina has the diagnostic capability to adequately test samples for the presence of the FMD virus. The laboratory in Buenos Aires has adequate quality control activities; adequate laboratory equipment, which is routinely monitored and calibrated; sufficient staff; and an effective and efficient recordkeeping system for storage and retrieval of data. The tests used to investigate evidence of viral activity are consistent with OIE guidelines. The staff members appear to be well-trained and motivated. Samples were turned around in a timely manner.

Emergency Preparedness and Response

Argentina's efficient and effective traceability system is an important component of its emergency response capacity. As noted above, Argentina uses a mandatory national identification system, which includes individual animal identification numbers, for cattle that are destined for export. In addition, Argentina uses a mandatory identification system to track the entire cattle population in the country by lot. That system proved to be effective during the 2003 and 2006 FMD outbreaks in the traceback of all contacts.

Argentina relies heavily on community notification of FMD outbreaks, as that tends to be the most efficient way to locate disease. Once notification occurs, the Federal contingency plan for FMD is extensive and thorough, and a significant degree of necessary autonomy is built in at the Provincial level.

APHIS concluded that adequate legal authority, funding, personnel, and resources exist at both the Provincial and Federal levels to carry out emergency response measures. The emergency response is both rapid and effective, as shown following the FMD outbreaks in Northern Argentina in 2003 and 2006.

The above findings are detailed in the risk analysis document summarized above. The risk analysis explains the factors that have led us to conclude that fresh (chilled or frozen) beef may be safely imported from Northern Argentina under the conditions enumerated above. It also establishes that Argentina has adequate veterinary infrastructures in place to prevent, control, report, and manage FMD and outbreaks. Therefore, we are proposing to amend § 94.29 to allow the importation of fresh beef from Northern Argentina under the conditions described above.

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

Our analysis examines potential economic impacts of a proposed rule that would allow fresh (chilled or frozen) beef from Northern Argentina to be imported into the United States provided certain conditions are met. Economic effects of the rule for both U.S. producers and consumers are expected to be very small. Producers' welfare would be negatively affected, but not significantly. Gains for consumers would outweigh producer losses, resulting in a net benefit to the U.S. economy.

The United States is the largest beef producer in the world and yet still imports a significant quantity. U.S. beef import volumes from 1999 to 2013 averaged 0.9 million metric tons (MT) or roughly 11 percent of U.S. production. Most of the beef imported by the United States is from grass-fed cattle and is processed with trimmings from U.S. grain-fed cattle to make ground beef. Australia, Canada, and New Zealand are the main foreign suppliers of beef to the United States.

Effects of the proposed rule are estimated using a partial equilibrium model of the U.S. agricultural sector. Economic impacts are estimated based on intra-sectoral linkages among the grain, livestock, and livestock product sectors. Annual imports of fresh (chilled or frozen) beef from Argentina are expected to range between 16,000 and 24,000 MT, with volumes averaging 20,000 MT. Quantity, price and welfare changes are estimated for these three import scenarios. The results are presented as average annual effects for the 5-year period 2014–2018.

The model indicates less than 10 percent of the beef imported from Argentina would displace beef that would otherwise be imported from other countries, in particular, from Australia, Canada, Mexico, New Zealand, and Uruguay. If the United States were to import 20,000 MT of beef from Argentina, total U.S. beef imports would increase by 1.35 percent. Due to the supply increase, the wholesale price of beef, the retail price of beef, and the price of cattle (steers) are estimated to decline by 0.22, 0.08, and 0.24 percent, respectively. U.S. beef production would decline by 0.01 percent while U.S. beef consumption and exports would increase by 0.12 and 0.22 percent, respectively. The 16,000 MT and 24,000 MT scenarios show similar quantity and price effects.

The fall in beef prices and the resulting decline in U.S. beef production would translate into reduced returns to capital and management in the livestock and beef sectors. Under the 20,000 MT import scenario, producers would experience a decline in surplus of $7.63 million or 0.42 percent, while

consumers would benefit from the decrease in price by an increase in their surplus of $130.24 million or 0.30 percent. The overall impact would be a net welfare gain of $122.61 million or 0.27 percent for the beef sector.

The 16,000 MT and 24,000 MT scenarios show similar welfare impacts, with net benefits increasing broadly in proportion to the quantity of beef imported. The largest impact would be for the beef sector, but consumers of pork would also benefit neglibly. While most of the establishments that would be affected by this rule are small entities, based on the results of this analysis, APHIS does not expect the impacts to be significant. APHIS welcomes information that the public may provide regarding potential economic effects of the proposed rule.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the importation of fresh (chilled or frozen) beef from Northern Argentina under the conditions described in this proposed rule, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room. (A link to Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2014–0032. Please send a copy of your comments to: (1) APHIS, using one of the methods described under **ADDRESSES** at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, Room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS' animal import regulations in §§ 94.1 and 94.29 will place certain restrictions on the importation of fresh (chilled or frozen) beef from Northern Argentina into the United States. Under these regulations, APHIS must collect information, prepared by an authorized certified official of the Government of Argentina, certifying that specific conditions for importation have been met.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 1.3 hours per response.

Respondents: Federal animal health authorities in Argentina and exporters of beef and beef products from Argentina to the United States.

Estimated annual number of respondents: 88.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 88.

Estimated total annual burden on respondents: 114 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT–AND–MOUTH DISEASE, NEWCASTLE DISEASE, HIGHLY PATHOGENIC AVIAN INFLUENZA, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 94.1 [Amended]

■ 2. Section 94.1 is amended in paragraphs (b)(4) and (d) introductory text by removing the words ''from Uruguay''.

■ 3. Section 94.29 is revised to read as follows:

§ 94.29 Restrictions on importation of fresh (chilled or frozen) beef and ovine meat from specified regions.

Notwithstanding any other provisions of this part, fresh (chilled or frozen) beef from a region in Argentina located north of Patagonia South and Patagonia North B, referred to as Northern Argentina, and fresh (chilled or frozen) beef and ovine meat from Uruguay may be exported to the United States under the following conditions:

(a) The meat is beef or ovine meat from animals that have been born, raised, and slaughtered in the exporting region of Argentina or in Uruguay.

(b) Foot-and-mouth disease has not been diagnosed in the exporting region of Argentina or in Uruguay within the previous 12 months.

(c) The meat comes from bovines or sheep that originated from premises where foot-and-mouth disease has not been present during the lifetime of any bovines and sheep slaughtered for the export of beef and ovine meat to the United States.

(d) The meat comes from bovines or sheep that were moved directly from the premises of origin to the slaughtering establishment without any contact with other animals.

(e) The meat comes from bovines or sheep that received ante-mortem and post-mortem veterinary inspections, paying particular attention to the head and feet, at the slaughtering establishment, with no evidence found of vesicular disease.

(f) The meat consists only of bovine parts or ovine parts that are, by standard practice, part of the animal's carcass that is placed in a chiller for maturation after slaughter. The bovine and ovine parts that may not be imported include all parts of the head, feet, hump, hooves, and internal organs.

(g) All bone and visually identifiable blood clots and lymphoid tissue have been removed from the meat.

(h) The meat has not been in contact with meat from regions other than those listed in § 94.1(a).

(i) The meat came from bovine carcasses that were allowed to maturate at 40 to 50 °F (4 to 10 °C) for a minimum of 24 hours after slaughter and that reached a pH below 6.0 in the loin muscle at the end of the maturation period. Measurements for pH must be taken at the middle of both *longissimus dorsi* muscles. Any carcass in which the pH does not reach less than 6.0 may be allowed to maturate an additional 24 hours and be retested, and, if the carcass still has not reached a pH of less than 6.0 after 48 hours, the meat from the carcass may not be exported to the United States.

(j) An authorized veterinary official of the government of the exporting region certifies on the foreign meat inspection certificate that the above conditions have been met.

(k) The establishment in which the bovines and sheep are slaughtered allows periodic on-site evaluation and subsequent inspection of its facilities, records, and operations by an APHIS representative.

(Approved by the Office of Management and Budget under control number 0579–0372)

Done in Washington, DC, this 26th day of August 2014.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–20643 Filed 8–28–14; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL TRADE COMMISSION

16 CFR Part 312

RIN 3084–AB20

Children's Online Privacy Protection Rule: AgeCheq Application for Parental Consent Method

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission publishes this request for public comment concerning the proposed parental consent method submitted by AgeCheq Inc. (''AgeCheq'') under the Voluntary Commission Approval Processes provision of the Children's Online Privacy Protection Rule.

DATES: Written comments must be received on or before September 30, 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 ''AgeCheq Application for Parental Consent Method, Project No. P–145410'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/coppaagecheqapp* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex K), 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 K), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Miry Kim, (202) 326–3622, Attorney, Kandi Parsons, Attorney, (202) 326–2369, or Peder Magee, Attorney, (202) 326–3538, Division of Privacy and Identity Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

On October 20, 1999, the Commission issued its final Rule [1] pursuant to the Children's Online Privacy Protection Act, 15 U.S.C. 6501 *et seq.,* which became effective on April 21, 2000.[2] On December 19, 2012, the Commission amended the Rule, and these amendments became effective on July 1, 2013.[3] The Rule requires certain Web site operators to post privacy policies and provide notice, and to obtain verifiable parental consent, prior to collecting, using, or disclosing personal information from children under the age of 13. The Rule enumerates methods for obtaining verifiable parental consent, while also allowing an interested party to file a written request for Commission approval of parental consent methods not currently enumerated.[4] To be considered, the party must submit a detailed description of the proposed parental consent method, together with an analysis of how the method meets the requirements for parental consent described in 16 CFR 312.5(b)(1).

Pursuant to § 312.12(a) of the Rule, AgeCheq has submitted a proposed parental consent method to the Commission for approval. The full text of its application is available on the Commission's Web site at *www.ftc.gov.*

Section B. Questions on the Parental Consent Method

The Commission is seeking comment on the proposed parental consent method, and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the Commission's consideration of the petition and should not be construed as a limitation on the issues on which public comment may be submitted. Responses to these questions should cite the number of the question being answered. For all comments submitted, please provide any relevant data, statistics, or any other evidence, upon which those comments are based.

[1] 64 FR 59888 (1999).

[2] 16 CFR part 312.

[3] 78 FR 3972 (2013).

[4] 16 CFR 312.12(a); 78 FR at 3991–3992, 4013.

1. Is this method, both with respect to the process for obtaining consent for an initial operator and any subsequent operators, already covered by existing methods enumerated in § 312.5(b)(1) of the Rule?

2. If this is a new method, provide comments on whether the proposed parental consent method, both with respect to an initial operator and any subsequent operators, meets the requirements for parental consent laid out in 16 CFR 312.5(b)(1). Specifically, the Commission is looking for comments on whether the proposed parental consent method is reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent.

3. Does this proposed method pose a risk to consumers' personal information? If so, is that risk outweighed by the benefit to consumers and businesses of using this method?

Section C. Invitation To Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 30, 2014. Write ''AgeCheq Application for Parental Consent Method, Project No. P–145410'' 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 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 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, including 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 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 follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[5] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/coppaagecheqapp,* 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 ''AgeCheq Application for Parental Consent Method, Project No. P–145410'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex K), 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 K), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before September 30, 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.*

[5] 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).

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–20645 Filed 8–28–14; 8:45 am]

BILLING CODE 6750–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0475; FRL–9915–83–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County's Adoption of Control Techniques Guidelines for Four Industry Categories for Control of Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve revisions to the Pennsylvania State Implementation Plan (SIP) submitted by the Commonwealth of Pennsylvania on behalf of the Allegheny County Health Department (ACHD). This SIP revision includes amendments to the ACHD Rules and Regulations, Article XXI, Air Pollution Control, and meets the requirement to adopt Reasonably Available Control Technology (RACT) for sources covered by EPA's Control Techniques Guidelines (CTG) standards for the following categories: miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials. Upon review of the submittal, EPA found that the average monomer volatile organic compound (VOC) content limits were referenced but not included in the regulation for fiberglass boat manufacturing materials. ACHD has committed to revising the regulation and submitting the table of VOC content limits for fiberglass boat manufacturing materials to EPA in order to address specific RACT requirements for Allegheny County. EPA is, therefore, proposing conditional approval of the revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before September 29, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–

R03–OAR–2014–0475 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov*

C. *Mail:* EPA–R03–OAR–2014–0475, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0475. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov*

SUPPLEMENTARY INFORMATION:

I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including RACT, for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIP to include RACT for sources of VOC emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment. EPA defines RACT as ''the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.'' 44 FR 53761 (September 17, 1979).

CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in determining RACT for VOC from various sources. Section 183(e)(3)(c) provides that EPA may issue a CTG in lieu of a national regulation as RACT for a product category where EPA determines that the CTG will be substantially as effective as regulations in reducing emissions of VOC in ozone nonattainment areas. The recommendations in the CTG are based upon available data and information and may not apply to a particular situation based upon the circumstances. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. In either case, states must submit their RACT rules to EPA for review and approval as part of the SIP process.

In 1977 and 1978, EPA published CTGs for miscellaneous metal and plastic parts surface coatings, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials. After reviewing the 1977/1978 CTGs for these industries, conducting a review of currently existing state and local VOC emission reduction approaches for these industries, and taking into account any information that has become available since then, EPA developed new CTGs entitled *Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings* (Publication No. EPA 453/R–08–003; September 2008); *Control Techniques Guidelines for Automobile and Light-duty Assembly Coatings* (Publication No. EPA 453/R–08–006; September 2008); *Control Techniques Guidelines for Miscellaneous Industrial Adhesives* (Publication No. EPA 453/R–08–005; September 2008); *Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials* (Publication No. EPA 453/R–08–004; September 2008).

III. Summary of SIP Revision

On November 15, 2013, Pennsylvania Department of Environmental Protection (PADEP) submitted to EPA on behalf of ACHD a SIP revision concerning the adoption of the EPA CTGs for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials in Allegheny County. Allegheny County is adopting EPA's CTG standards for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials. These regulations are contained in the Allegheny County Health Department (ACHD) Rules and Regulations, Article XXI, Air Pollution Control sections 2105.83, 2105.84, 2105.85, and 2105.86 in order to: (1) Establish applicability for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials; (2) establish exemptions; (3) establish record-keeping and work practice requirements; and (4) establish emission limitations. Upon review of the November 15, 2013 submittal, EPA found that a table of average monomer VOC content limit for fiberglass boat manufacturing materials was referenced, however, the table was

erroneously not included in the regulation. Pursuant to section 110(k)(4) of the CAA, PADEP submitted on behalf of ACHD a letter dated July 16, 2014 committing to submit a SIP revision to EPA addressing this error in order to satisfy the RACT requirements under the 8-hour ozone standard for Allegheny County. More detailed information on these provisions can be found in the technical support document located in the docket prepared for this rulemaking action.

IV. Proposed Action

EPA is proposing conditional approval of the Commonwealth of Pennsylvania SIP revision submitted on November 15, 2013, which consists of amendments to the ACHD Rules and Regulations, Article XXI, Air Pollution Control for adopting RACT for sources covered by EPA's CTG standards for the following categories: Miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials. Pursuant to section 110(k)(4) of the CAA, this conditional approval is based upon a letter from PADEP on behalf of ACHD dated July 16, 2014 committing to submit to EPA, no later than twelve months from EPA's final conditional approval of ACHD's adoption of CTGs for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials, an additional SIP revision to address the erroneous deficiency in the current regulation for fiberglass boat manufacturing materials. The SIP revision, to be submitted by PADEP on behalf of ACHD, will include a table of monomer VOC content limits for fiberglass boat manufacturing materials. Once EPA has determined that ACHD has satisfied this condition, EPA shall remove the conditional nature of its approval and Allegheny County's adoption of CTGs for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials will, at that time, receive a full approval status. Should ACHD fail to meet the condition specified above, the final conditional approval of Allegheny County's CTGs for the above listed source categories will convert to a disapproval. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 proposed rule, pertaining to ACHD's adoption of CTG standards for miscellaneous metal and/or plastic parts surface coating processes, automobile and light-duty truck assembly coatings, miscellaneous industrial adhesives, and fiberglass boat manufacturing materials, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not conditionally 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: August 14, 2014.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2014–20688 Filed 8–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2012–0918; FRL– 9915–91–OAR]

EPA Responses to State and Tribal 2012 Primary Annual Fine Particle Designation Recommendations

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and public comment period.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has posted its responses to state and tribal designation recommendations for the 2012 primary annual fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) on the agency's Internet Web site. The EPA invites the public to review and provide input on its responses during the comment period specified in the **DATES** section. The EPA sent its responses directly to the states and tribes on or about August 19, 2014. These responses focus on designating as ''nonattainment'' certain areas of the country where air monitoring data from 2011–2013 indicate violations of the 2012 primary annual $PM_{2.5}$ NAAQS. The EPA intends to make final designation determinations for the 2012 primary annual $PM_{2.5}$ NAAQS for most areas of the country in December 2014. This notice also announces the EPA's decision to extend the designation period by up to 1 year to December 2015 for a limited number of areas for which insufficient information is currently available to promulgate designations.

DATES: Comments must be received on or before September 29, 2014. Please

refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–OAR–HQ–2012–0918, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Email: A-and-R-docket@epa.gov. Attention Docket ID No. EPA–HQ–OAR–2012–0918* in the subject line of the message.
- *Fax:* 202–566–9744. *Attention Docket ID No. EPA–HQ–OAR–2012–0918*.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, *Attention Docket ID No. EPA–HQ–OAR–2012–0918,* 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0918. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information or other information whose disclosure is restricted by statute. Do not submit information that you consider to be confidential business information or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA is unable to read your comment and cannot contact you for clarification due to technical difficulties, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. For additional instructions on submitting comments, go to Section II of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* 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 in *www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC. 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 Air Docket is 202–566–1742.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact Beth Palma, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Planning Division, C539–04, Research Triangle Park, NC 27711, telephone 919–541–5432, email at *palma.elizabeth@epa.gov*. For questions about areas in EPA Region 1, please contact Alison Simcox, U.S. EPA, telephone 617–918–1684, email at *simcox.alison@epa.gov*. For questions about areas in EPA Region 2, please contact Kenneth Fradkin, U.S. EPA, telephone 212–637–3702, email at *fradkin.kenneth@epa.gov*. For questions about areas in EPA Region 3, please contact Maria Pino, U.S. EPA, telephone 215–814–2181, email at *pino.maria@epa.gov*. For questions about areas in EPA Region 4, please contact Joel Huey, U.S. EPA, telephone 404–562–9104, email at *huey.joel@epa.gov*. For questions about areas in EPA Region 5, please contact Carolyn Persoon, U.S. EPA, telephone 312–353–8290, email at *persoon.carolyn@epa.gov*. For questions about areas in EPA Region 6, please contact John Walser, U.S. EPA, telephone 214–665–7128, email at *walser.john@epa.gov*. For questions about areas in EPA Region 7, please contact Andy Hawkins, U.S. EPA, telephone 913–551–7179, email at *hawkins.andy@epa.gov*. For questions about areas in EPA Region 8, please contact Crystal Ostigaard, U.S. EPA, telephone 303–312–6602, email at *ostigaard.crystal@epa.gov*. For questions about areas in EPA Region 9, please contact John J. Kelly, U.S. EPA, telephone 415–947–4151, email at *kelly.johnj@epa.gov*. For questions about areas in EPA Region 10, please contact Justin Spenillo, U.S. EPA, telephone 206–553–6125, email at *spenillo.justin@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

On December 14, 2012, the EPA revised the primary annual $PM_{2.5}$ NAAQS to provide increased protection of public health and welfare from fine particle pollution (78 FR 3086; January 15, 2013). In that action, the EPA revised the primary annual $PM_{2.5}$ standard, strengthening it from 15.0 micrograms per cubic meter (μg/m³) to 12.0 μg/m³, which is attained when the 3-year average of the annual arithmetic means does not exceed 12.0 μg/m³.

The process for designating areas following promulgation of a new or revised NAAQS is contained in Clean Air Act (CAA) section 107(d), 42 U.S.C. 7407(d). Following the promulgation of a new or revised NAAQS, each governor or tribal leader has an opportunity to recommend air quality designations, including the appropriate boundaries for nonattainment areas, to the EPA. The EPA considers these recommendations as part of its duty to promulgate the formal area designations and boundaries for the new or revised NAAQS. By no later than 120 days prior to promulgating designations, the EPA is required to notify states and tribes of any intended modification to an area designation or boundary recommendation that the EPA deems necessary.

On or about August 19, 2014, the EPA notified states and tribes of its intended area designations for the 2012 primary annual $PM_{2.5}$ NAAQS. The EPA based its intended 2012 primary annual $PM_{2.5}$ NAAQS area designations on an evaluation of complete, certified, and quality-assured monitored air quality data for 2011–2013, including an evaluation of exceptional event claims.[1] States and tribes now have an opportunity to demonstrate why they believe an intended modification by the EPA may be inappropriate. The EPA

[1] Exceptional event claims influenced the EPA's intended designations for areas in the state of Hawaii and for Lemhi County, Idaho.

encourages states and tribes to provide comments and additional information for the EPA to consider before finalizing designations in December 2014.

The purpose of this notice is to solicit public comments from interested parties other than states and tribes regarding the EPA's recent responses to the state and tribal designation recommendations for the 2012 primary annual $PM_{2.5}$ NAAQS. These responses, and their supporting technical analyses, can be found on the EPA's Internet Web site at *http://www.epa.gov/airquality/particlepollution/designations/2012standards/index.htm* and also in the public docket for the 2012 primary annual $PM_{2.5}$ designations at *www.regulations.gov,* Docket ID No. EPA–HQ–OAR–2012–0918. The EPA invites public comment on its responses to states and tribes during the 30-day comment period provided by this notice. Although under CAA section 107(d) the EPA is not required to seek public comment during this designation process, the EPA is electing to do so for the 2012 primary annual $PM_{2.5}$ NAAQS to gather additional information for consideration before promulgating final designations. Due to the statutory timeframe for promulgating designations set out in CAA section 107(d), the EPA will not be able to consider any public comments submitted after September 29, 2014. This notice and opportunity for public comment does not affect any rights or obligations of the EPA, or any state or tribe, which might otherwise exist pursuant to CAA section 107(d).

Please refer to the **ADDRESSES** section above in this document for specific instructions on submitting comments and locating relevant public documents.

The EPA believes that the boundaries for each nonattainment area should be evaluated and determined on a case-by-case basis considering the specific facts and circumstances unique to the area. CAA section 107(d) requires that the EPA designate as nonattainment not only any area that is violating the 2012 primary annual $PM_{2.5}$ NAAQS, but also any nearby areas that contribute to the violation in the violating area. The EPA is particularly interested in receiving comments, supported by relevant information, if you believe that a specific geographic area that the EPA is proposing to identify as a nonattainment area should not be categorized by the section 107(d) criteria as nonattainment, or if you believe that a specific nearby area not proposed by the EPA to be identified as contributing to a nonattainment area should in fact be categorized as contributing to nonattainment using the section 107(d) criteria. Please be as specific as possible in supporting your views.

- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to provide your input by the comment period deadline identified in this notice.

To date, the EPA has identified 14 areas that do not meet the 2012 primary annual $PM_{2.5}$ NAAQS, and intends to designate these areas as nonattainment—*http://www.epa.gov/airquality/particlepollution/designations/2012standards/docs/20140819nonattainment.pdf*. The EPA has also identified eight areas with ambient air quality monitoring sites that lack complete data for the relevant period—*http://www.epa.gov/airquality/particlepollution/designations/2012standards/docs/20140819unclassifiablelist.pdf*. Accordingly, because the EPA cannot determine based on available information whether or not these areas are meeting or not meeting the NAAQS, the EPA intends to designate these areas as ''unclassifiable.'' The EPA intends to designate all but five of the remaining areas of the country as ''unclassifiable/attainment.'' For the five remaining areas, which are located in the state of Georgia and 2 neighboring counties in the bordering states of Alabama and South Carolina, relevant information, including air quality monitoring data, are insufficient to promulgate a designation at this time—*http://www.epa.gov/airquality/particlepollution/designations/2012standards/docs/20140819deferredlist.pdf*. For these areas the EPA believes that an additional year of air quality monitoring data will result in complete and valid data sufficient to inform a designation determination. Accordingly, the EPA is extending the designation determination period for these five areas for up to 1 year under the authority of CAA section 107(d)(1)(B)(i). The EPA will assess supplementary data for these areas before promulgating initial designations by the statutory deadline of December 14, 2015.

II. Instructions for Submitting Public Comments

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

1. *Submitting Confidential Business Information.* Do not submit this information to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be confidential business information. For confidential business information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as confidential business information and then identify electronically within the disk or CD–ROM the specific information that is claimed as confidential business information. In addition to one complete version of the comment that includes information claimed as confidential business information, a copy of the comment that does not contain the information claimed as confidential business information 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. Send or deliver information identified as confidential business information only to the following address: Roberto Morales, U.S. EPA, Office of Air Quality Planning and Standards, Mail Code C404–02, Research Triangle Park, NC 27711, telephone 919–541–0880, email at *morales.roberto@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2012–0918.

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

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

III. Internet Web Site for Rulemaking Information

The EPA has also established a Web site for this rulemaking at *http://www.epa.gov/airquality/particlepollution/designations/2012standards/index.htm*. The Web site includes the state and tribal designation recommendations, information supporting the EPA's preliminary designation decisions, as well as the rulemaking actions and other related information that the public may find useful.

Dated: August 20, 2014.

Mary Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–20641 Filed 8–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9915–96–Region–6; EPA–R06–RCRA–2013–0785]

40 CFR Part 271

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Oklahoma has applied to the Environmental Protection Agency (EPA) for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant Final authorization to the State of Oklahoma. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the direct final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the direct final rule. Unless we get written comments which oppose this authorization during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by September 29, 2014.

ADDRESSES: Send written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, (6PD–O), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Oklahoma during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533; or Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101–1677, (405) 702–7180. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the direct final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: August 5, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–20648 Filed 8–28–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120706220–4693–01]

RIN 0648–BC34

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Pot Gear Fishing Closure in the Pribilof Islands Habitat Conservation Zone in the Bering Sea

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 103 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) to close year-round the Pribilof Islands Habitat Conservation Zone (PIHCZ) to directed fishing for Pacific cod with pot gear to minimize bycatch and prevent overfishing of Pribilof Islands blue king crab (PIBKC). This action would promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Submit comments on or before September 29, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0141, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0141,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the BSAI FMP, Amendment 103 to the BSAI FMP, the Environmental Assessment (EA), and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the BSAI groundfish fisheries under the FMP for groundfish in the BSAI management area (BSAI FMP). The North Pacific Fishery Management Council (Council) prepared the FMP

under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. Regulations implementing the BSAI FMP appear at 50 CFR part 679.

The Council submitted Amendment 103 to the BSAI FMP for review by the Secretary of Commerce, and a notice of availability was published in the **Federal Register** on August 21, 2014 (79 FR 49487), with comments invited through October 20, 2014. Comments may address Amendment 103 to the BSAI FMP, or this proposed rule, but must be received by October 20, 2014, to be considered in the approval/disapproval decision on Amendment 103 to the BSAI FMP. All comments received by that date, whether specifically directed to Amendment 103 to the BSAI FMP or to this proposed rule will be considered in the approval/disapproval decision on Amendment 103.

Background

The Pribilof Islands blue king crab (PIBKC) stock is managed as a distinct stock and occurs around the islands of Saint Paul and Saint George in the Bering Sea. The PIBKC stock is currently overfished and under a rebuilding plan (69 FR 17651, April 5, 2004). NMFS and the Alaska Department of Fish and Game (ADF&G) have implemented a number of increasingly conservative management measures to limit potentially adverse fishery effects on PIBKC.

In 1999, as part of the joint management of the crab stocks under the Crab FMP, the ADF&G closed the directed PIBKC fishery due to the declining trend in PIBKC abundance. ADF&G also closed the directed Pribilof Islands red king crab fishery to minimize the bycatch of PIBKC in that fishery. Based on NMFS annual trawl survey data, ADF&G continues to annually close specific State statistical areas where PIBKC are known to occur during the Bristol Bay red king crab, snow crab, and Tanner crab fisheries to minimize PIBKC bycatch in those crab fisheries.

NMFS closed the Pribilof Islands Habitat Conservation Zone (PIHCZ) to groundfish trawl gear to protect blue king crab under Amendment 21a to the BSAI FMP (60 FR 4110, January 20, 1995). The PIHCZ was established based on the distribution of the blue king crab recorded in the NMFS annual trawl surveys and on observer data (see proposed Figure 10 to 50 CFR part 679).

NMFS classified the PIBKC stock as a prohibited species in Table 2b to 50 CFR part 679. The BSAI FMP and implementing regulations at § 679.21 require that the incidental catch of prohibited species be avoided while fishing for groundfish. Regulations at § 679.7(a)(12) prohibit retaining or possessing prohibited species unless permitted to do so under the Prohibited Species Donation program as provided by § 679.26 of this part, or as authorized by other applicable law. Pursuant to these regulations, directed groundfish fisheries must immediately return PIBKC bycatch to the sea with a minimum of injury.

Due to chronic low abundance, this stock remains overfished despite these measures to minimize catch of blue king crab. The cause of the continued low PIBKC stock abundance and failure to recover is not well understood. Information included in recent Stock Assessment and Fishery Evaluation (SAFE) reports suggest that environmental conditions such as changing ocean currents, changing water temperatures, and changing spatial distributions among king crab stocks may contribute to the failure of this stock to recover (see 2010, 2011, 2012 SAFE reports for the PIBKC). While there are no apparent physical barriers to adult dispersal, crab larval dispersal may be affected by local oceanography, which may in turn affect recruitment of the PIBKC stock (see Table 4–4 of the EA). Environmental conditions may also play a role in female crab reproduction and growth; however this relationship is poorly understood (Section 4.5.2 of the EA).

The continuing low abundance of PIBKC underscores the need to implement additional measures to minimize PIBKC bycatch in the groundfish fisheries to the extent practicable. The Council considered additional conservation and management measures to further minimize bycatch and prevent overfishing with the goal to rebuild PIBKC. The Council recommended Amendment 103 to address the remaining significant source of PIBKC mortality by prohibiting Pacific cod directed fishing with pot gear in the PIHCZ. The Pacific cod pot fishery occurs within the PIHCZ and had the highest observed bycatch rates of PIBKC across all gear types from 2005 to 2011 (see Section 4.5.4 of the EA). This action is consistent with the PIBKC rebuilding plan, but reduces PIBKC bycatch in the groundfish fishery to address the potential for PIBKC bycatch in the groundfish fishery to exceed the annual PIBKC overfishing limit.

The Council recommended closing the PIHCZ to directed fishing for Pacific cod with pot gear based on (1) the high rate of PIBKC bycatch in the PIHCZ relative to other areas outside of the PIHCZ, (2) the high concentration of PIBKC in the PIHCZ, (3) the occurrence of known PIBKC habitat within the PIHCZ, (4) the high rate of PIBKC bycatch in the Pacific cod pot fishery relative to other groundfish fisheries, and (5) the limited impact the Pacific cod pot gear closure in the PIHCZ would have on the Pacific cod pot fishery relative to other groundfish fisheries closures. This proposed action ensures that the reduction of bycatch is focused on the fishery that is most likely to achieve the bycatch reduction with the least economic impacts overall for the groundfish fisheries.

In recommending this proposed action, the Council considered a number of management measures designed to reduce PIBKC bycatch in the groundfish fisheries. The Council considered expanding the year-round PIHCZ closure to apply not only to vessels using trawl gear, but also to groundfish fisheries that have contributed to a designated percentage threshold of PIBKC bycatch from 2003 to 2010. The Council also considered implementing groundfish closure areas that would mirror the current ADF&G crab closure areas or that would cover the entire distribution of the PIBKC stock. Such closures would apply to groundfish fisheries that have contributed to greater than a designated percentage threshold of PIBKC bycatch. Finally, the Council considered establishing PIBKC prohibited species catch (PSC) limits. All PIBKC bycatch in all groundfish fisheries would accrue toward the PIBKC PSC limit. Once reached, the PIBKC PSC limit would trigger fishery closures that would apply only to those groundfish fisheries that had contributed to a greater than designated threshold of PIBKC bycatch (triggered closures) (see Section 2 of the EA).

The Council evaluated the alternatives based on the best scientific information available, including survey data on location and concentration of PIBKC, historical distribution of PIBKC, environmental conditions and biology of the PIBKC stock, observed PIBKC bycatch rates in all the groundfish fisheries, information on key habitat components for the PIBKC stock, the potential displacement of fishing effort from the alternative closure areas to other fishing grounds, and the economic impact of PIBKC bycatch reductions and closure areas on fishing communities.

The Council noted that the best scientific information on PIBKC

location, observed catch rates, and habitat type indicates that the PIHCZ contains the highest concentration of PIBKC as well as PIBKC habitat. The Pacific cod pot gear fishery had the highest observed bycatch rates of PIBKC across all gear types from 2005 to 2011. During this time period, the average observed PIBKC bycatch rate in Pacific cod fisheries using pot gear within the PIHCZ was 0.052 crab per metric ton of groundfish. In the BSAI, the highest and second-highest PIBKC bycatch rates by Pacific cod pot gear are located within the PIHCZ to the northeast and east of St. Paul Island, respectively. Nearly all of the observed PIBKC bycatch was within the PIHCZ. In recommending the prohibition on directed fishing for Pacific cod with pot gear in the PIHCZ, the Council focused on the groundfish sector with the highest observed bycatch rate in an area where the PIBKC stock and habitat are concentrated (see Sections 2.2 and 4.5.5 of the EA).

This action would prevent the BSAI groundfish fisheries from exceeding the overfishing level established for the PIBKC stock. Although the PIBKC bycatch in all groundfish fisheries has been below the overfishing level, the Council acknowledged that recent trends in crab bycatch suggest that groundfish fisheries occurring near the Pribilof Islands have the potential to exceed the overfishing level and acceptable biological catch for this stock (see Section 1.1 of the EA). Prohibiting Pacific cod pot fishing in the habitat conservation zone would remove a significant source of crab bycatch mortality and prevent exceeding the PIBKC overfishing level.

This proposed action would minimize PIBKC bycatch in the groundfish fisheries to the extent practicable, consistent with National Standard 9. Prohibiting directed fishing for Pacific cod with pot gear in the PIHCZ would prevent PIBKC bycatch in an area of known PIBKC habitat. In recommending the proposed action, the Council noted that Pacific cod catches by vessels using pot gear that occur within the PIHCZ could be effectively harvested outside of the boundary of the PIHCZ; thus, the overall catch of Pacific cod would not be reduced. In addition, in more recent years, Pacific cod pot sector harvests within the PIHCZ have declined considerably to approximately 125 tons with a value of about $200,000, which represents less than one percent of Pacific cod pot fleet total revenue in 2010 (see Sections 1.4.2.1 and 1.4.2.2 of the RIR). According to the RIR, prohibiting fishing for Pacific cod with pot gear in the PIHCZ is practicable for the Pacific cod pot sector because this measure is not expected to result in increased operational costs or reduced harvest for this sector.

As noted above, the Council evaluated a number of additional alternatives that would further reduce PIBKC bycatch in other groundfish fisheries. The Council did not recommend imposing prohibitions on directed groundfish fishing within the PIHCZ beyond the directed fishing for groundfish using trawl gear and directed fishing for Pacific cod using pot gear. Additional prohibitions were not projected to result in PIBKC bycatch savings, but would likely have serious adverse economic impacts on fishing communities, as the groundfish fisheries attempt to avoid PIBKC bycatch through foregone groundfish catch or increased operating costs.

For example, prohibiting directed fishing for Pacific cod with hook-and-line gear would have closed the PIHCZ to the groundfish sector having the second highest PIBKC bycatch rate in this area. The observed PIBKC bycatch in the PIHCZ taken by the Pacific cod hook-and-line sector was 347 crabs from 2005 to 2011, amounting to 0.2 percent of the PIBKC stock abundance (see Section 4.5.5.1 of the EA, Table 4–12). However, based on the retrospective analysis, extending the PIHCZ closure to this sector could result in foregone groundfish catch, increased operating costs, and potentially serious negative economic impacts. The Pacific cod hook-and-line sector annually harvests 1,500 tons with a value of $2 million, or about 1.7 percent of this sector's total revenue, within the PIHCZ. In contrast to the Pacific cod pot sector's estimated pattern of redeployment outside of the PIHCZ, the retrospective analysis in the RIR indicates that the Pacific cod hook-and-line fleet will experience increased operational costs because this sector may need to make up foregone catch by altering fishing patterns in widely dispersed areas outside the PIHCZ that have a history of smaller catches (see Sections 4.5.5.1 of the EA and 1.4.2 of the RIR). In addition, the Pacific cod hook-and-line fishery is managed almost entirely under a voluntary cooperative management structure and can respond to PIBKC bycatch through cooperative management measures in order to avoid bycatch (see Section 4.5.5.1 of the EA).

Similarly, the Council did not extend the closure to non-Pacific cod hook-and-line and pot fisheries within the PIHCZ because those sectors only had an average PIBKC bycatch rate of 0.0176 per metric ton of groundfish from 2005 to 2011 (see Section 4.5.5.1 of the EA). Based on the much lower observed PIBKC bycatch rate, the bycatch savings from extending the closure in the PIHCZ to those fisheries would likely be negligible and did not outweigh the costs that would be imposed on these fisheries.

Although additional closures or extended closure configurations may further reduce PIBKC bycatch in the groundfish fisheries, as contemplated by Alternatives 3, 4, 5, and 6, the Council noted numerous stock distribution and observer coverage issues with respect to these alternatives. Area closures outside the PIHCZ and area closures triggered by fishery-wide PIBKC PSC limits would not be viable at this time because of the difficulty in establishing the PIBKC stock boundary, the current limitations in distinguishing and accounting for bycatch of PIBKC from bycatch of St. Matthew Island blue king crab in the groundfish fisheries, and the resulting limitations in the methodology for estimated mortality of PIBKC relative to stock distribution.

For example, the PIBKC stock is located in Federal reporting area 513. However, portions of this stock are also located in Federal reporting areas 521 and 524, areas that are occupied primarily by the St. Matthew Island blue king crab stock. Because the catch accounting system (CAS) is designed to estimate catch across the entire Bering Sea in terms of catch per species, rather than catch per stock, the CAS does not have the resolution to distinguish between crab mortality of St. Matthew and Pribilof Islands blue king crab stocks in these areas. Further, the Council ultimately did not consider trigger cap closures (Alternatives 2c, 5, and 6) viable alternatives due to uncertainty in appropriate definition of the stock area and the resulting current limitations in the methodology for estimating mortality of PIBKC relative to the stock distribution (see Section 4.2.2 of the EA). The potential costs of the various alternatives are shown as tonnage and gross revenue at risk in Tables 1–6 to 1–15 of the RIR. Because of the added administrative costs associated with these closures and because NMFS would be unable to effectively manage these PIBKC bycatch reduction measures at this time, the Council and NMFS believe these alternatives would not be practicable.

The Council considered but did not ultimately choose an option available under any of the alternatives to apply increased observer coverage. Observer coverage requirements were modified in 2013 under the restructured Observer Program (77 FR 70062, November 21, 2012), which now requires full observer coverage on catcher/processors, some of which were under 30 percent coverage

requirements prior to 2013. This change in observer coverage will improve estimation for hook-and-line catcher/processors operating in the PIHCZ. Catcher vessels, which harvest a very small proportion of the groundfish relative to catcher/processors, are under partial coverage under the restructured Observer Program. Randomized deployment under the restructured Observer Program will improve the quality of data available from the catcher vessel sector and provide additional information on relative catch rates by all fleets (see Section 3.4.1 of the EA).

Proposed Regulatory Revisions Required by the Actions

NMFS proposes to revise § 679.22(a)(6) to prohibit directed fishing for Pacific cod using pot gear in the PIHCZ. The existing prohibition on the use of trawl gear in the PIHCZ would be retained. In addition, Figure 10 to part 679 would be revised by changing the name from ''Pribilof Islands Habitat Conservation Area in the Bering Sea'' to read ''Pribilof Islands Habitat Conservation Zone in the Bering Sea'' to be consistent with the definition of the PIHCZ at § 679.2. The map for Figure 10 would be reformatted for greater accuracy and improved appearance. These format changes are non-substantive. See proposed Figure 10 to part 679.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the BSAI FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

Initial Regulatory Flexibility Analysis

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble and are not repeated here. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

On June 12, 2014, the Small Business Administration issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647, June 12, 2014). The rule increased the size standard for Finfish Fishing from $19.0 million to $20.5 million, Shellfish Fishing from $ 5.0 million to $5.5 million, and Other Marine Fishing from $7.0 million to $7.5 million. The new size standards were used to prepare the IRFA for this action.

Number and Description of Small Entities Regulated by the Proposed Action

The entities directly regulated by this proposed action are the owners and operators of vessels directed fishing for Pacific cod using pot gear in the PIHCZ. Earnings from all Alaska fisheries for 2010, the most recent year of complete earnings data, were matched with the vessels that participated in the BSAI groundfish fisheries for that year. Based on the known affiliations and joint ownership of the vessels, a total of 114 vessels caught, or caught and processed, less than $20.5 million ex-vessel value or product value of groundfish and other species in the BSAI. These 114 vessels are considered small entities because they all have annual ex-vessel revenues less than the $20.5 million standard for small finifish fishing vessels under the RFA. Of these 114 vessels, 34 directed fish for Pacific cod using pot gear, and all of these vessels could be regulated by this action.

The six Western Alaska Community Development Quota (CDQ) groups and the 65 communities they represent are small entities under the RFA. Each of the CDQ groups receives annual allocations of Pacific cod in the BSAI. The CDQ groups harvest these allocations with vessels they own and vessels they contract with. The vessels owned by the CDQ groups and used to target Pacific cod are primarily large catcher/processors using hook-and-line or trawl gear. In 2012, the CDQ groups harvested 24,402 metric tons of Pacific cod. Less than 15 percent of this catch was made by vessels using pot gear, none of which were owned by the CDQ groups (actual catch using pot gear is confidential). None of the Pacific cod caught by the CDQ groups was harvested within the proposed closure areas. As CDQ groups have never used pot gear to harvest Pacific cod within the proposed closure area, the proposed action is not expected to impact the CDQ groups, the CDQ communities, or the vessels that fish on their behalf.

The impacts of the proposed action on directly regulated small entities are analyzed in the IRFA. In recent years, many of the vessels identified in this analysis as having potential small entity impacts have become members of fishing cooperatives. Increased affiliation with the BSAI Freezer-Longline Cooperative, as well as various crab cooperatives, has resulted in many vessels now being classified as large entities due to these affiliations. This analysis has incorporated cooperative affiliation information to adjust the numbers of potentially directly regulated small entities and, thereby, the estimate of revenue at risk specific to small entities. The result is evident in the declining small entity impact estimates in 2010, where estimated impacts are near zero for many alternatives with the exception of potential CDQ impacts, which are, by definition, small although the vessels that harvest for CDQ organizations are themselves now large via affiliations. Thus, with increased membership in cooperatives, nearly all of the potentially directly regulated vessels are presently classified as large entities and the potential effects of the proposed action on small entities appears to be de-minimis.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

An IRFA requires a description of any significant alternatives to the preferred alternative that would minimize any significant adverse economic impact of the proposed rule on small entities. The suite of potential actions includes six alternatives with components and options for closures in the Bering Sea to minimize the bycatch of PIBKC and reduce the risk of overfishing.

The Council's preferred alternative, Alternative 2b, was selected as the action alternative. Alternative 2b would close year round the PIHCZ to directed fishing for Pacific cod with pot gear to prevent overfishing of PIBKC and minimize bycatch of PIBKC in groundfish fisheries. Alternative 2b would further reduce PIBKC bycatch mortality in groundfish fisheries, enhancing the likelihood of a successful rebuilding effort.

Alternative 1 is the status quo or no action alternative, which would not change the closure to all trawl gear in

the PIHCZ. This alternative does not meet the goals and objectives of the action to minimize bycatch of PIBKC, and would not provide further protection to PIBKC from the potential effects of the groundfish fisheries.

Alternatives 2 through 6 would retain all of the current protection measures in place for the PIBKC stock and apply additional measures. These alternatives would establish closure areas for specific groundfish fisheries that are described in the following paragraphs for each alternative.

Alternative 2 included three specific methods for closing the PIHCZ to directed fishing for a variety of groundfish fisheries. Alternative 2a would close the PIHCZ on an annual basis to groundfish fisheries that met a threshold of PIBKC bycatch from 2003 to 2010 that is greater than 5 percent of the ABC of PIBKC. Fisheries that met the 5-percent threshold are the Pacific cod hook-and-line fishery, Pacific cod pot fishery, yellowfin sole trawl fishery, and other flatfish trawl fishery. Alternative 2b, the preferred alternative proposed to be implemented by this action, would close the PIHCZ year round to Pacific cod pot fishing. Alternative 2c would close the PIHCZ to directed fishing for Pacific cod by vessels using pot gear if the total PIBKC bycatch in all groundfish fisheries in the BSAI reached 20 percent, 30 percent, or 50 percent of the overall trigger closure cap of 75 percent of the ABC. Alternative 2c would also require vessels directed fishing for Pacific cod with pot gear in the PIHCZ to maintain 100 percent observer coverage. Alternatives 2a and 2c would have a greater impact on small entities than Alternative 2b because more vessels would be subject to potential closures in the PIHCZ. Alternative 2c would also increase the potential costs on small entities by increasing observer coverage requirements for these vessels.

Alternative 3 would close the existing ADF&G crab closure area between 168° and 170° West longitude, and between 57° and 58° North latitude to additional fishing effort, in addition to the status quo groundfish trawl closure. Under Alternative 3, Option 3a, this closure would apply to all groundfish fisheries that have contributed greater than a designated threshold to bycatch of PIBKC since 2003. The closure would apply to any fishery that had bycatch of PIBKC between 2003 and 2010 of greater than 5 percent of ABC. Under the 5 percent threshold, the closure would apply to the following fisheries: Yellowfin sole trawl, other flatfish trawl, Pacific cod pot, and Pacific cod hook-and-line. Alternative 3b would close the area to directed fishing for Pacific cod only. Alternative 3a would have a greater impact on small entities than Alternative 3b because more vessels would be subject to potential closures in the PIHCZ. While Alternative 3b could potentially have less of an impact on small entities than the other alternatives (data is confidential for all years except 2005), the Alternative 3 closure boundaries exclude southern parts of the PIHCZ where PIBKC bycatch by Pacific cod pot fishing has occurred (see Figure 5–25 in the EA).

Alternative 4 would establish a closure throughout the range of the PIBKC based on either the distribution of the PIBKC stock aggregated from 1975 to 2009, or from 1984 to 2009. This range of data represented recent trends of the known distribution of PIBKC based on current stock survey methodologies and is greater than the area closure in the PIHCZ and the ADF&G closures defined under Alternative 3. Alternatives 4a and 4b would establish closures consistent with the same criteria established for Alternatives 2a and 2b, and 3a and 3b, respectively. Alternative 4 would have a greater impact on small entities due to the greater size of the closure.

Alternative 5 would establish a PSC limit equal to either the overfishing limit (OFL), the ABC, or a proportion of the ABC for the PIBKC stock. All bycatch of the PIBKC in all groundfish fisheries would accrue toward this PSC limit, and those groundfish fisheries that contributed to greater than a designated threshold of PIBKC bycatch since 2003 would be closed once the fishery-wide PSC limit was reached.

Alternative 5 would have four closure area options: Options 5a, 5b, 5c, and 5d, which correspond to the closure areas defined under Alternatives 1, 3, and 4 (1975 to 2009 PIBKC stock distribution and 1984 to 2009 PIBKC stock distribution), respectively. Under each of these options, the closure would be triggered by attainment of a fishery-wide PIBKC PSC limit set at the following options: PSC limit equal to the OFL, PSC limit equal to the ABC, PSC limit equal to 90 percent of the ABC, or PSC limit equal to 75 percent of the ABC. Under Option 5d, under the PSC limit equal to 90 percent of the ABC and the PSC limit equal to 75 percent of the ABC, there would be an additional option for allocation of the PSC limit by gear type: 40 Percent trawl gear, 40 percent pot gear, and 20 percent hook-and-line gear.

Alternative 6 would have two components: (1) Establish a year-round closure of the PIHCZ to directed fishing for Pacific cod using pot gear, and (2) establish a triggered closure of the area representing the distribution of the PIBKC stock from 1984 to 2009. The PSC limit associated with the triggered closure would be established as a fishery-wide level at 75 percent of the ABC. The PSC limit would be set either in the numbers of crab based on the average weight in the previous season or in numbers of crab based on a rolling 5-year average weight. The PSC limit would be further allocated to sectors either by gear type or to all groundfish fisheries in the aggregate by seasons.

In addition, each of the alternatives included options to increase observer coverage that could be applied to all fisheries or a specific fishery.

The Council ultimately did not consider trigger cap closures (Alternatives 2c, 5, and 6) viable alternatives, due to uncertainty in appropriate definition of the stock area and the resulting current limitations in the methodology for estimating mortality of PIBKC relative to the stock distribution (see discussion in Section 5.2.2 of the EA). These alternatives would not have a measurable impact that would minimize the bycatch of PIBKC relative to status quo. These alternatives could reduce the risk of overfishing, but they would not effectively prevent overfishing, consistent with the goals and objectives of this action.

None of the viable alternatives (Alternative 2a, Alternatives 3a and 3b, and Alternatives 4a and 4b) could potentially have less of an impact on fisheries than the Council's recommended alternative, 2b. Table 1–34 in the IRFA (see **ADDRESSES**) provides a comparison of the potential impacts on directly regulated small entities, in terms of gross revenue at risk, under each of the alternatives. Based on the best available scientific data and information, there are no alternatives to the proposed action that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on directly regulated small entities.

Reporting, Recordkeeping, and Other Compliance Requirements

This proposed action does not contain reporting, recordkeeping, or other compliance requirements.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: August 26, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 2. In § 679.22, revise paragraph (a)(6) to read as follows:

§ 679.22 Closures

(a) * * *

(6) *Pribilof Islands Habitat Conservation Zone.* Directed fishing for groundfish using trawl gear and directed fishing for Pacific cod using pot gear is prohibited at all times in the area defined in Figure 10 to this part as the Pribilof Islands Habitat Conservation Zone.

■ 3. Revise Figure 10 to part 679—including the Figure heading—to read as follows:

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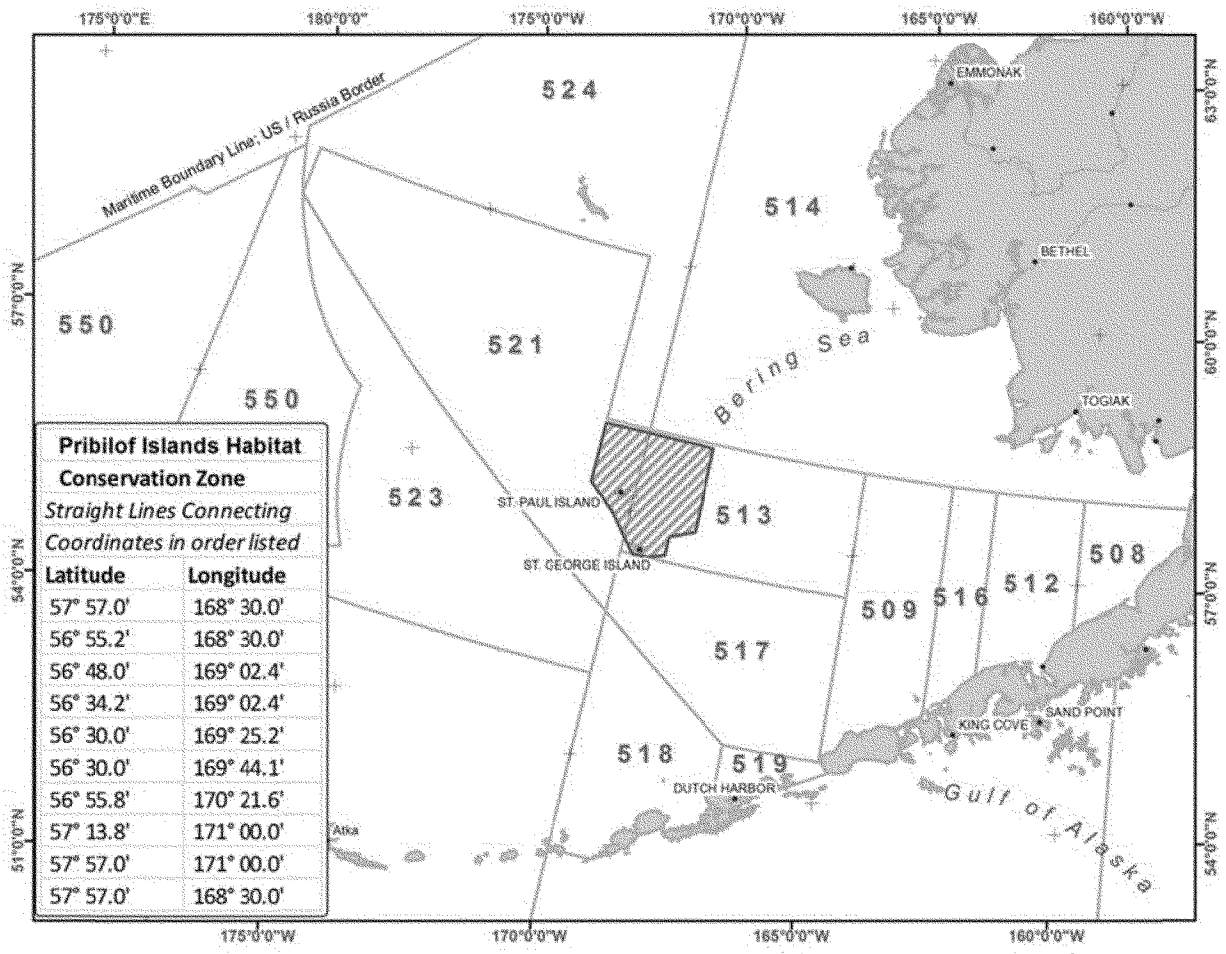
Figure 10 to Part 679—Pribilof Islands Habitat Conservation Zone (PIHCZ) in the Bering Sea.



[FR Doc. 2014–20682 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–C

Notices

Federal Register

Vol. 79, No. 168

Friday, August 29, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0088]

Determination of Pest-Free Areas in Australia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we are recognizing the Australian States of New South Wales, Northern Territory, Queensland, South Australia, Tasmania, and Victoria as free of Mediterranean fruit fly (Medfly) and the State of Western Australia as free of Queensland fruit fly. Based on our evaluation of the survey protocols and other information provided by Australia's national plant protection organization, which we made available to the public for review and comment through a previous notice, the Administrator has determined that these areas meet the criteria in our regulations for recognition as pest-free areas for either Medfly or Queensland fruit fly.

DATES: *Effective Date:* August 29, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. George Apgar Balady, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2240.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–69, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. One of the designated phytosanitary measures is that the fruits or vegetables are imported from a pest-free area in the country of origin that meets the requirements of § 319.56–5 for freedom from that pest and are accompanied by a phytosanitary certificate stating that the fruits or vegetables originated in a pest-free area in the country of origin.

Under the regulations in § 319.56–5, APHIS requires that determinations of pest-free areas be made in accordance with the criteria for establishing freedom from pests found in International Standards for Phytosanitary Measures (ISPM) No. 4, ''Requirements For the Establishment of Pest Free Areas.'' The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in our regulations in 7 CFR 300.5. In addition, APHIS must also approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be performed upon detection of a pest. Pest-free areas are subject to audit by APHIS to verify their status.

In accordance with our process, we published a notice [1] in the **Federal Register** on September 14, 2011 (76 FR 56730–56731, Docket No. APHIS–2011–0088), in which we announced the availability, for review and comment, of a commodity import evaluation document (CIED) that evaluates the information presented by Australia in support of its request to recognize new areas of that country as being free of *Ceratitis capitata,* the Mediterranean fruit fly (Medfly), and to recognize other areas of the country as being free of *Bactrocera tryoni,* the Queensland fruit fly. Specifically, the Government of Australia asked that we recognize the States of New South Wales, Northern Territory, Queensland, South Australia, Tasmania, and Victoria as free of Medfly and the State of Western Australia as free of Queensland fruit fly.

We solicited comments on the notice for 60 days ending on November 14, 2011. We received one comment by that date, from a State agricultural official. The comment is discussed below.

The commenter expressed concern about the expansion of fruit fly-free areas because the introduction of Medfly or Queensland fly into the commenter's State could result in costly eradication programs and possible economic losses for producers due to quarantines and market disruptions.

APHIS has recognized various areas of Australia as free of Medfly, Queensland fruit fly, and other fruit flies destructive to citrus for over 10 years, and no fruit fly problems have occurred as a result of commodities being imported into the United States from these areas. Populations of Medfly are restricted to a small part of the southwest of Western Australia and isolated communities in coastal towns in the north of the State. With the exception of the fruit fly exclusion zone consisting of parts of South Australia, northern Victoria, and southern New South Wales, populations of Queensland fruit fly are restricted to Queensland, New South Wales, Victoria, and the Northern Territory.

Freedom from Medfly outside the State of Western Australia has been established by results from ongoing monitoring with permanent Medfly traps, as part of the national trapping grid. Australia has not trapped a Medfly in an eastern Australian State since 1953 in Melbourne. After a single Medfly was detected in the Katherine area in Northwest Australia in 1994, eradication activities were initiated and no further detections have occurred.

The national plant protection organization (NPPO) of Australia has declared the whole State of Western Australia free of Queensland fruit fly, and although incursions have been reported, these have been successfully eradicated. The Queensland fruit fly was eradicated from the Perth metropolitan area in 1990. APHIS will continuously monitor commodities from Australia with port-of-entry inspections. We believe that this gives the United States robust protection from fruit flies.

The commenter also stated that an area should not be declared free of only

[1] To view the notice, the CIED, and the comment we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0088.*

select fruit flies. The commenter suggested that the fruit-fly-free designation should be applied only to areas free from all fruit flies of economic importance because recognizing areas as free from one species but not another is inconsistent and confusing.

Although APHIS is recognizing portions of Australia as free of Medfly and another portion of Australia as free of the Queensland fruit fly, host material (fruit) from these areas of Australia would still require mitigation, typically quarantine treatment, before importation into the United States. Commodities from the areas of Australia where Medfly is the only pest of concern would require only mitigations for Medfly. Likewise, commodities originating from areas in Australia where Queensland fruit fly is the only pest of concern would require only mitigations for Queensland fruit fly. The benefit of declaring these areas as free from only one of the fruit flies that may infest the commodity is that the treatment for either fruit fly is less stringent than the treatment that would be required for a commodity originating from an area where both species are present. For instance, cherries from Australia that are imported into the United States must undergo cold treatment for Queensland fruit fly and must be treated with methyl bromide for Medfly. However, with the recognition of fruit fly areas as described in this notice, no area of Australia is home to both Medfly and Queensland fruit fly. Therefore, cherries imported from Australia will only have to be treated with cold treatment if originating from an area where Queensland fruit fly is present or be treated with methyl bromide if originating from an area where Medfly is present.

The commenter asked about the trap densities in Australia, stating that the 25,000 fruit fly traps maintained by the NPPO of Australia and the Australian State and territorial governments is low compared to the more than 55,000 fruit fly traps maintained in Florida.

Australia maintains trap densities that are in line with International Atomic Energy Agency fruit fly trapping guidelines, the same guidelines that the United States follows. Australia's trapping manual specifies that the traps be deployed on a 400 km grid in urban areas and 1 km grid in horticultural production areas. The fruit fly trapping programs in Australia are concentrated in fruit-growing regions in order to provide support for fruit fly freedom for specific areas, such as the districts of Riverland, Riverina, and Sunraysia. The climate in many parts of Australia does not support the presence of fruit fly hosts or provide conditions suitable for fruit fly survival, and trapping is not required in these areas. In addition, Australia requires that their trapping systems, including trap density and placement, undergo annual audits to ensure their effectiveness.

The commenter asked about the population dynamics of Medfly and Queensland fruit fly in the specified Australian States. The commenter also asked what types of onsite assessments have been done and whether future program audits are planned.

In areas of Eastern Australia where the Queensland fruit fly can be found, it is most active in summer and fall. Cold and dry conditions, especially freezes, cause reductions in populations. The NPPO of Australia has declared the whole State of Western Australia free of Queensland fruit fly and, although incursions have been reported, these have been successfully eradicated.

Medfly is active in the summer months in Western Australia, where sterile insect technique (SIT), biocontrol, and other suppression strategies are being used. Confirmation of Medfly distribution in Western Australia is obtained and verified through specific detection surveys. Freedom from Medfly in other Australian States has been established by results from ongoing monitoring with permanent Medfly traps as part of the national trapping grid. In South Australia, any detections of Medfly from the stringent surveillance networks are rapidly followed by eradication activities. In the Northern Territory, a number of trapping and detection systems have been maintained in both urban and horticultural areas for Medfly since 1985. While there have been some detections of small numbers of Medfly in South Australia and the Northern Territory, effective detection and eradication programs have successfully maintained both South Australia and the Northern Territory as free from Medfly.

On-site assessments by APHIS were conducted for the pest-free areas in Riverland, Riverina, and Sunraysia when they were first established. Based on our experiences with the NPPO of Australia and with the importation of fruit fly host commodities from areas APHIS has previously recognized as free of fruit flies, we determined that no additional site visits were necessary here. We will inspect commodities imported from Australia for fruit flies at the port of entry and we will rely on the annual survey data from the NPPO of Australia to inform us if fruit flies are found in areas that we have recognized as free of fruit flies. We do not currently plan to conduct further site visits or formal program audits but reserve the right to do so in the future if necessary.

The commenter also expressed concern about the adequacy, in his view, of opportunities for stakeholder involvement in the initial stages of the development of these types of program proposals. The commenter requested the opportunity to participate in site visits and initial program review discussions on issues that could directly impact his State.

APHIS is committed to a transparent process and an inclusive role for stakeholders in our risk analysis process. To that end, we have put in place a stakeholder notification system [2] to provide opportunities for involvement during the initial stages of the development of pest risk assessments. However, since this comment relates to the structure of APHIS's overall risk analysis process, and not to the determination of pest-free areas in Australia, it is outside the scope of the current action.

Therefore, in accordance with § 319.56–5(c), we are announcing the Administrator's determination that the States of New South Wales, Northern Territory, Queensland, South Australia, Tasmania, and Victoria meet the criteria of § 319.56–5(a) and (b) with respect to freedom from Medfly and the State of Western Australia meets the criteria of § 319.56–5(a) and (b) with respect to freedom from Queensland fruit fly. Accordingly, we are amending the list of pest-free areas to list the States of New South Wales, Northern Territory, Queensland, South Australia, Tasmania, and Victoria as free of Medfly and the State of Western Australia as free of Queensland fruit fly. A list of pest-free areas currently recognized by APHIS can be found at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf*.

Done in Washington, DC, this 25th day of August 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–20613 Filed 8–28–14; 8:45 am]

BILLING CODE 3410–34–P

[2] Go to *https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new?preferences=true#tab1.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0105]

Notice of Determination of the Foot-and-Mouth Disease and Rinderpest Status of a Region of Patagonia, Argentina

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are adding a region of Argentina, consisting of the areas of Patagonia South and Patagonia North B, to the lists of regions that are considered free of rinderpest and foot-and-mouth disease (FMD). We are taking this action because we have determined that this region is free of rinderpest and FMD. We are also adding the Patagonia Region to the list of regions that are subject to certain import restrictions on meat and meat products because of their proximity to or trading relationships with rinderpest- or FMD-affected countries. These actions update the disease status of the Patagonia Region with regard to rinderpest and foot-and-mouth disease while continuing to protect the United States from an introduction of those diseases by providing additional requirements for any meat and meat products imported into the United States from the Patagonia Region of Argentina.

DATES: Effective Date: October 28, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. Silvia Kreindel, Senior Staff Veterinarian, Regionalization Evaluation Services, National Import Export Services, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 851–3300.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States to prevent the introduction of various animal diseases, including rinderpest and foot-and-mouth disease (FMD). The regulations prohibit or restrict the importation of live ruminants and swine, and products from these animals, from regions where rinderpest or FMD is considered to exist.

Within part 94, § 94.1 contains requirements governing the importation of ruminants and swine from regions where rinderpest or FMD exists and the importation of the meat of any ruminants or swine from regions where rinderpest or FMD exists to prevent the introduction of either disease into the United States. We consider rinderpest and FMD to exist in all regions except those listed in accordance with paragraph (a)(2) of that section as free of rinderpest and FMD.

Section 94.11 of the regulations contains requirements governing the importation of meat of any ruminants or swine from regions that have been determined to be free of rinderpest and FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. Such regions are listed in accordance with paragraph (a)(3) of that section.

The regulations in 9 CFR part 92, § 92.2, contain requirements for requesting the recognition of the animal health status of a region. If, after review and evaluation of the information submitted in support of the request, the Animal and Plant Health Inspection Service (APHIS) believes the request can be safely granted, APHIS will make its evaluation available for public comment through a notice published in the **Federal Register**. At the close of the comment period, APHIS will review all comments received and will make a final determination regarding the request that will be detailed in another notice published in the **Federal Register**.

In accordance with that process, on January 23, 2014, we published in the **Federal Register** (79 FR 3775–3777, Docket No. APHIS–2013–0105) a notice of availability [1] in which we announced the availability for review and comment of our evaluation of the FMD status of the areas of Patagonia South and Patagonia North B, referred to below as the Patagonia Region of Argentina. Based on this evaluation, we determined that that the animal disease surveillance, prevention, and control measures implemented by Argentina in the Patagonia Region are sufficient to minimize the likelihood of introducing FMD into the United States via imports of FMD-susceptible species or products.

However, because of the Patagonia Region's proximity to and trading relationships with FMD-affected regions, we found that it is necessary to impose certain restrictions in accordance with § 94.11 on the importation of meat of any ruminants or swine from the Patagonia Region.

In the same notice we also made available an evaluation assessing the rinderpest status of South America for public review and comment. Rinderpest has never been established in South America. No South American country has ever reported the disease except Brazil, which had an outbreak in 1921 that was limited in scope and quickly eradicated. Furthermore, the global distribution of rinderpest has diminished significantly in recent years as a result of the Food and Agriculture Organization Global Rinderpest Eradication Program. The last known cases of rinderpest worldwide occurred in the southern part of the ''Somali pastoral ecosystem'' consisting of southern Somalia, eastern Kenya, and southern Ethiopia. In May 2011, the World Organization for Animal Health (OIE) announced its recognition of global rinderpest freedom.

We solicited comments on the notice of availability for 60 days ending on March 24, 2014, and extended the comment period for an additional 30 days, ending April 23, 2014. We received 33 comments by that date, from State and national livestock associations and from private citizens. The commenters raised a number of issues about our proposed action. The comments are discussed below.

Five commenters specifically addressed our proposal to recognize South America as free of rinderpest. All of those commenters expressed support for that determination.

Many commenters raised concerns about the risk analysis for FMD. These concerns included concerns about the methodology, scope, hazard identification, release assessment, exposure assessment, risk estimation, and discussion of geographical details.

Several commenters stated that the specific methodology and measurements used during the site visits to support the qualitative risk analysis are not available for review. One commenter expressed concern that such documentation was not collected or recorded. That commenter also stated that APHIS should develop a protocol to be used for site visits so that reviewers' assessments can be analyzed and summarized more objectively, and then made available with APHIS' conclusions of the risk analysis.

The purpose of the site visit is to verify and complement the information previously provided by the country. APHIS site visits consist of an in-depth evaluation of the risk factors identified by APHIS in § 92.2 as factors to consider in assessing the risk of the relevant animal disease posed by a region.[2] The

[1] To view the notice of availability, the assessments, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0105.*

[2] The risk analysis for the Patagonia Region includes an in-depth assessment of the 11 factors

animal disease risks are identified in the risk analysis from the information gathered on these factors during the site visits and APHIS' document review, and whenever mitigations are considered necessary, such mitigations are discussed in the risk analysis.

APHIS has also published guidance on our approach to implementing our regionalization process and the way in which we apply risk analysis to the decision-making process for regionalization. This document can be found on the APHIS Web site at *http://www.aphis.usda.gov/import_export/animals/downloads/regionalization_process.pdf*.

Site visit findings are thoroughly described throughout the risk analysis, including visits to local offices (pages 21–22), airports (pages 33–34), border controls (pages 37–38), farms (page 43), and laboratories (pages 60–64).

One commenter stated that APHIS should regard the eight factors as more than a simple checklist for reviewers and that consistent implementation of the factors should be completely verified.

APHIS agrees with the commenter. When conducting a site visit, APHIS verifies that all the factors related to the FMD control and eradication program, including prevention, controls, surveillance, and reporting, are in place and that the country has strong veterinary authority and infrastructure to carry out the FMD program.

Some commenters stated that according to the risk analysis, APHIS only conducted three site visits to the Patagonia Region. The commenters stated that APHIS should maintain a more active and robust presence in the region.

APHIS believes that its site visits to the Patagonia Region, in conjunction with the other documentation and information APHIS has reviewed, provided APHIS with sufficient information to correctly determine the region's FMD status. As a member of the OIE, Argentina must immediately notify the OIE of any suspect cases of FMD that may occur in the future. In addition, under § 92.2, a region that is granted a specific animal health status may be required to submit additional information pertaining to that animal health status, or to allow APHIS to conduct additional information collection activities in order to maintain its animal health status.

One commenter stated that the hazard identification appears to be lacking information, and that APHIS seems to consider that FMD is the only hazard of concern. The commenter also stated that the risk analysis does not provide detailed information about the different serotypes of the FMD virus, does not discuss the efficacy of the FMD vaccination programs in regions surrounding Patagonia, and does not mention virus survival in commodities of concern, such as sheep and lamb embryos and semen. The commenter stated further that the risk analysis does not provide any details regarding the onset of clinical signs for the different species or focus on subclinical disease or the species, such as sheep, that may display mild clinical signs that can go unnoticed and undetected.

APHIS notes that Argentina requested FMD status recognition; therefore the risk analysis focuses on the FMD status of the region and not on other hazards. Appendix I of the risk analysis describes the different serotypes of the FMD virus. In the risk analysis APHIS also describes the disease status of adjacent regions, including the FMD outbreaks that occurred in 2003 and 2006, and the eradication and control programs in adjacent regions.

The vaccination rates in the adjacent region of Northern Argentina reached over 99 percent between 2008 and 2012. In addition, the region of Northern Argentina has several overlapping controls to ensure compliance with vaccination calendars through matching vaccination records to movement permits and census data and through field inspections. We have updated the risk analysis to add the following to the discussion of the disease status of adjacent regions: ''Vaccination of cattle is mandatory in the area north of the 42nd parallel with the exception of Patagonia North B (the area adjacent to Patagonia South, a region without vaccination) and recently, Patagonia North A and the summer pastures (zona veranadas) of Calingasta Valleys in the province of San Juan. The Servicio Nacional de Sanidad y Calidad Agroalimentaria (SENASA) is the Government of Argentina's enforcement authority and regulating body for planning, implementing, and controlling actions to eradicate FMD. SENASA establishes the technical requirements for the vaccination program. Vaccination can only be performed by authorized personnel who are trained, registered, and accredited/audited by SENASA. Vaccination coverage rates have been over 97 percent in the region above the 42nd parallel (with the exception of Patagonia North B, and most recently Patagonia North A, in which vaccination is not conducted) since 2001.''

On page 71 of the risk analysis, we described embryos as presenting a negligible risk of infecting an exposed recipient with the FMD virus, as the zona pellucida is an important barrier against pathogens, and only embryos with an intact zona pellucida may be imported into the United States under the provisions of § 98.3(h). On page 72 of the document we described semen as presenting a likelihood of exposure of susceptible animals to this virus if the semen is collected from an infected animal. However, based on the conclusion of the release assessment that diseased animals are not likely to exist in the Patagonia Region or, if they do, are not likely to go undetected, APHIS considers it unlikely that U.S. animals would be exposed to infected semen from the Patagonia Region.

APHIS looked at clinical disease in all the relevant species, including those, like swine, that are not expected to be exported from the Patagonia Region. Clinical disease in sheep is discussed in Appendix I. APHIS has updated the risk assessment to add the following to the Appendix: ''The incubation period in sheep is similar to that observed in bovines, and has been reported to be 1 to 12 days, with most cases appearing in 2–8 days.'' We understand that subclinical disease or species-specific symptoms may result in unnoticed and undetected viral infection. However, because no vaccination is carried out in the Patagonia Region, any cattle or swine in that region exposed to the FMD virus would act as good sentinels of an outbreak.

One commenter stated that the release (entry) assessment focuses on the factors in § 92.2 rather than providing a description of all the biological pathways necessary for an importation activity to introduce the disease into the United States. The commenter stated that this section could be strengthened by a detailed chronological list of FMD outbreak information for the Patagonia Region and the bordering regions to include the year of the outbreak, epidemiological disease spread information, risk factors, maps, and the controls implemented during the outbreak.

When preparing a risk analysis, APHIS evaluates the relevant pathways as described by the scientific literature and supported by the OIE. Therefore, on page 70 of the risk analysis, APHIS has described the biological pathway that it

used by APHIS to evaluate the animal health status of a region prior to 2012. In 2012, APHIS consolidated the 11 factors listed in § 92.2(b) into 8 factors. APHIS introduced this simplification in order to facilitate the application process; however, since the evaluation of the Patagonia Region started before 2012, and the topics addressed by the 11 factors are encapsulated in the 8, this analysis follows the 11 factor format.

believes is most likely to result in the release of FMD into the United States, which is exposure through the importation of FMD-infected sheep meat. APHIS also discusses the history of FMD outbreaks in the Patagonia Region and neighboring regions in sections 2 and 3 of the entry assessment. APHIS does not believe a description of all the biological pathways that could possibly introduce FMD into the United States is necessary or helpful in determining the likelihood of release because not all pathways will lead to the introduction of active virus through the importation of susceptible commodities.

In conducting an animal disease status evaluation in a foreign region, APHIS focuses on the likelihood that the region is free of the hazard(s) by evaluating, for example, the official veterinary capacity and authority, surveillance systems, and import controls, in place in the exporting country. APHIS believes that an analysis of these factors provides a robust analysis of the likelihood of release of FMD into the United States. Given that there is a very low likelihood that FMD is present in the Patagonia Region or would be introduced into Argentina without detection, the corresponding entry likelihood into the United States is considered also to be very low.

One commenter stated that the exposure assessment does not discuss the potential transmission of FMD within and from quarantine facilities.

We are confident that the exposure assessment appropriately describes the biological pathways necessary for exposure of animals and humans in the United States to FMD, and that APHIS' regulatory safeguards will provide effective protection against the risks associated with the importation of ruminants or their products from the Patagonia Region of Argentina. These safeguards include subjecting animals and animal products from the region to certain restrictions because of the region's proximity to FMD-affected countries (§ 94.11); certification that ruminants and swine have been kept in a region entirely free of FMD and rinderpest (for ruminants) for 60 days prior to export (§§ 93.405 and 93.505); and a minimum quarantine of 30 days from the date of arrival at the port of entry for most imported ruminants (§ 93.411), and 15 days for all imported swine (§ 93.510).

One commenter stated that sufficient data is lacking for the plausible risk exposure pathways mentioned in the exposure assessment.

In the risk analysis, the exposure pathways are defined for the importation of sheep meat, genetic materials, and susceptible live ruminants. We anticipate that these are the commodities that will be exported to the United States based on the information provided in Argentina's application, our knowledge of the livestock industry in the Patagonia Region, and what commodities are exported from the Patagonia Region now.

One commenter stated that there is a disparity in the risk levels for embryos in the exposure assessment with the documentation as negligible on page 71 and low on page 72.

The risk of transmission of FMD via embryos is negligible. APHIS will correct the wording on page 72.

The commenters stated that the risk analysis does not include sufficient detail for geographical landmarks outlining the Patagonia Region or maps with the necessary level of detail to be useful.

APHIS disagrees. The geographic landmarks outlining the Patagonia Region are described on page 27 of the risk analysis. This description also includes a discussion of the area and climate. Figure 1 is a map of Argentina showing different provinces (including oceans and neighboring countries) and Figure 2 shows the regionalization status as defined by the OIE after Patagonia North B was recognized as free without vaccination in May 2007.

One commenter stated that the risk analysis review and general assessment process do not seem to be completely transparent and are not documented satisfactorily for thorough outside analysis, but did not identify specific aspects of the process that seemed opaque.

APHIS is confident that the review and assessment process is appropriately explained and documented in the risk analysis document.

Several commenters stated that APHIS should prepare a quantitative risk analysis and make it available for public review. Some commenters stated that the qualitative format for the risk analysis is subjective and fails to objectively quantify the probability of risk and adequately assess the magnitude of the consequences. One commenter noted that APHIS prepared a quantitative risk analysis in 2002 for importation of beef from Uruguay and asked why APHIS chose to prepare a qualitative risk analysis for the Patagonia Region.

APHIS believes that a qualitative analysis is appropriate in this situation. APHIS' evaluations are based on science and conducted according to the factors identified in § 92.2, which include biosecurity measures, livestock demographics, and marketing practices. As explained in the risk analysis, we conducted an in-depth evaluation of the 11 factors used by APHIS to evaluate the animal health status of a region prior to 2012. The factors include: (1) The authority, organization, and infrastructure of the veterinary services organization in the region; (2) Disease status; (3) The status of adjacent regions with respect to the agent; (4) The extent of an active disease control program, if any, if the agent is known to exist in the region; (5) The vaccination status of the region; (6) The degree to which the region is separated from adjacent regions of higher risk through physical or other barriers; (7) The extent to which movement of animals and animal products is controlled from regions of higher risk, and the level of biosecurity regarding such movements; (8) Livestock demographics and marketing practices in the region; (9) The type and extent of disease surveillance in the region; (10) Diagnostic laboratory capacity; and (11) Policies and infrastructure for animal disease control in the region. Neither the regulations in 9 CFR part 92 nor APHIS guidance documents require a quantitative risk analysis or indicate that one is needed here.

Most of APHIS' risk analyses have been, and continue to be, qualitative in nature. Over time, APHIS has come to use qualitative risk assessments given the limitations of quantitative models, although APHIS recognizes that quantitative risk analysis models can be useful in cases where the risk management questions or information cannot be addressed with a qualitative model. When coupled with site visit evaluations, APHIS believes that qualitative risk analyses provide the necessary information to assess risk of disease introduction through importation. Additionally, quantitative modes are resource-intensive and take a much longer time to complete. Quantitative models also tend to be data-intensive, and the types of data needs required by such models are often not available or adequate under most circumstances. At the same time that quantitative models are data-intensive, they are also necessarily developed using a set of assumptions that may not always adequately represent the biological situation in question, thus resulting in a wide range of uncertainty in interpretation of the model outcomes. Quantitative models also require constant updating, which is dependent on availability of current research and data, and thus these models may not

always represent the current state of scientific information. Finally, uncertainty in the results or outcomes of quantitative models also arises from a large number of sources, including problem specification, conceptual or computational model construction and model misspecification, estimation of input values, and other model misspecification issues.

One commenter asked what types of training programs are given to SENASA personnel stationed at the border checkpoints and patrolling in the areas along the border.

The training of SENASA border personnel is described on page 30 of the risk analysis. The border personnel are trained on a number of topics, including legal framework, national and international zoosanitary status, epidemiological characterization of the region, and import and export procedures.

Two commenters expressed concern that Argentina's border control and security between the Patagonia Region and neighboring regions have not been adequately verified.

Border control and security in the Patagonia Region are discussed on pages 27 through 37 of the risk analysis. APHIS looked at these issues during all of its site visits. Based on those visits and other documents and information that APHIS has obtained and made available with the risk analysis, APHIS is confident that Argentina's border controls with respect to the Patagonia Region are sufficient to prevent the introduction of FMD into the region.

One commenter stated that in addition to assessing the risk of disease directly from animals and animal products from the Patagonia Region, it is also important to measure and address risk due to potential economic incentives to trans-ship animals and animal products. Two additional commenters expressed concern that because Argentina consumes a large portion of the meat that is produced in the country, and because there is transit between regions for access and delivery of beef and meat products, there is a greater risk of contamination and infection across regional boundaries.

As we explained above, APHIS has assessed the border controls and security of the Patagonia Region and we are confident that these are sufficient to prevent the introduction of FMD into the region. We also note that Argentina has effective and appropriate requirements for the importation of susceptible commodities into the Patagonia Region. These are discussed on page 69 of the risk analysis.

One commenter asked what disinfection methods are used against the FMD virus at the border points.

As explained on page 38 of the risk analysis, disinfection methods include spraying vehicles with disinfectants that are effective against the FMD virus. Among other effective disinfectants, SENASA uses the following: 5.25 percent sodium hypochlorite, 3 percent acetic acid, 4 percent potassium peroxymonosulfate and 1 percent sodium chloride, and 4 percent sodium carbonate.

One commenter stated that SENASA reports that all producers, animal caretakers, and transporters were well-versed in recognizing clinical signs of FMD in livestock. The commenter asked how these individuals were trained to recognize clinical and subclinical signs of FMD, and if there is any accreditation or certification process for their training. The commenter also asked if there was any verification process for their reported FMD recognition skills.

APHIS notes that ''subclinical disease'' means that there are no observable clinical signs of the disease. The training requirements for official and non-official veterinarians are described on page 19 of the risk analysis, and the training requirements for SENASA personnel are described on page 20. In all cases the training is in line with the main strategies in Argentina's FMD National Eradication Plan. In addition, different components of FMD outreach and awareness programs (e.g., radio advertisement, presentations to industry, etc.) remind producers of vaccination campaigns, clinical signs compatible with the disease, and compulsory reporting of suspect cases.

With respect to verification of disease recognition skills, SENASA has a training and promotion program, which includes the performance of drills. The training is carried out by the Bureau of Epidemiology. In addition, the Field General Coordination holds meetings to provide updates on the information, methodology, and standards that the local veterinarians should know. Training records are maintained by the Bureau of Human Resources and Training in which official agents get credits for the various classes they attend. The credits are added up in a score that is used towards promotions in the organization. The Bureau of Human Resources and Training coordinates the training activities of each of the National Bureaus through training consultants. In the case of the National Bureau of Animal Health, two professionals work as consultants who lead the 22 training delegates of the provinces who coordinate, audit, and guide the process of teaching official veterinarians. This training program is described in the risk analysis on page 67.

Three commenters stated that over half the sheep in Argentina reside in the Patagonia Region. The sheep are generally raised in extensive management systems and since FMD clinical signs are relatively subtle in sheep, it is important that data be collected for public review on which specific diagnostic practices and risk mitigation measures are used at border crossings to prevent FMD from entering Patagonia. One commenter asked specifically how APHIS will ensure that there are enhanced surveillance systems in place that will preclude the virus circulating in the sheep population undetected.

The commenters are correct that sheep are the predominant livestock species in the Patagonia Region. Almost 60 percent of the sheep in Argentina reside in Patagonia. The livestock density is less than one animal per hectare. Due to extensive husbandry practices and low animal density, contact between sheep and other species and with other sheep is minimized, reducing the risk of disease spread in the event that the FMD virus was introduced into the region. As we explained above, no vaccination is carried out in the Patagonia Region, so any cattle or swine in that region exposed to the FMD virus would act as good sentinels of an outbreak.

Border control and security in the Patagonia Region are discussed on pages 27 through 37 of the risk analysis. SENASA conducts serological surveillance (testing blood serum for viral activity) of sheep and cattle. This is an effective indicator of the FMD situation because the FMD susceptible species are not vaccinated against FMD. Furthermore, for sheep, premises identification is required, either by eartag, which includes the CUIG (Clave Unica de Identification Ganadera—Unique Holding Identification Code) number of the farm, or ear notch. The eartag color and shape may be selected by the farmer (the color is not specific to the FMD status of the region as in cattle). Ear notches are controlled by and registered with SENASA to ensure that they are unique. SENASA requires all premises with agricultural animal production to register with SENASA and obtain a RENSPA (Registro Nacional Sanitario de Productores Agropecuarios—National Sanitary Registry of Ag-Producers) number, an alphanumeric identifier that encodes information about individual premises.

The RENSPA number is structured to identify the province, municipality, premises, and various details of the particular premises, such as ownership, rental status, or shared occupancy. In association with the RENSPA number, census information on all species on the premises and permit information showing animal movements are included in a database maintained by field officials. This information allows animals from an individual premise to be traced effectively, and we are confident that SENASA would be able to respond quickly in the event of positive or false positive results from serological testing.

Many commenters stated that Argentina has shown a trend of decreasing compliance in audits conducted by the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) between 2005 and 2009. One of the commenters stated that Argentina's history of compliance issues could influence their ability to consistently and successfully enforce control measures within the Patagonia Region in order to successfully mitigate the risk from the possible entry of FMD into this region from the surrounding higher-risk areas. One commenter asked if APHIS consulted with FSIS as part of our evaluation, and if so, what was FSIS' feedback.

The purpose of APHIS' evaluation was to assess the FMD situation in the Patagonia Region and to evaluate Argentina's ability to comply with the certification requirements for exporting specific FMD-susceptible commodities to the United States, including the certification requirements in § 94.11 for meat and other animal products imported from regions that are considered free of FMD and rinderpest but are subject to additional restrictions because of their proximity to or trading relationships with regions that are not free of FMD or rinderpest. Based on its site visits and other documentation and information, APHIS concluded that Argentina's legal framework, animal health infrastructure, movement and border controls, diagnostic capabilities, surveillance programs, and emergency response capacity are sufficient to detect, prevent, control, and eradicate FMD outbreaks within the boundaries of the Patagonia Region of Argentina. Moreover, with respect to the Patagonia Region, APHIS concluded that the Argentine veterinary authority is capable of complying with our requirements.

Nevertheless, based on the comments, APHIS has reviewed the last five FSIS audits conducted in Argentina at the slaughter level. The FSIS audits concluded that ante-mortem inspection processes, which are relevant to the detection of FMD during the slaughter process, were conducted satisfactorily.

One commenter stated that reviews of the European Commission's Food and Veterinary Office (EC FVO) audits identified points of concern in the areas of border controls, animal identification, vaccination controls, and other concerns. The audits evaluated animal health controls concerning FMD, related animal health control measures, and related certification procedures for fresh bovine and ovine meat intended for export to the European Union (EU).

The overall objective of the EC FVO audits was to assess the animal health controls in place in order to verify that guarantees provided by the competent authorities of Argentina, concerning the health status of the country with regard to FMD, continue to meet the requirements for the export of ovine and bovine meat from Argentina to the EU. In response to the comments, APHIS reviewed the latest reports. The most recent report, from 2012, concluded that the official FMD control system in place for Argentina is reliable and meets EU requirements.

One commenter stated that the 2012 EC FVO audit showed a less than satisfactory enforcement of some requirements of the sheep identification and movement registration system in the Patagonia Region. The commenter also stated that the same audit identified a weak official control system along the Bolivian border, which cannot ensure the adequate management of risks related to animal movements and sufficient verification of satisfactory implementation of vaccination campaigns for FMD. The commenter further stated that limited attention is being paid to official ''on-the-spot'' controls on FMD vaccination, which casts doubt on the adequate fulfillment of the vaccination coverage in all areas with an increased risk of FMD.

As discussed above, the 2012 EC FVO report concluded that Argentina meets the requirements set forth by the OIE and the EU for complying with both the EU's certification requirements for fresh bovine and ovine meat and Articles 8.5.4 and 8.5.5 of the OIE's Terrestrial Animal Health Code recognizing an FMD zone where vaccination is not practiced and an FMD zone where vaccination is practiced. Furthermore, with regard to the commenter's concern that the lack of ''on-the-spot'' controls on FMD vaccination would lead to inadequate fulfillment of vaccination coverage, as we discussed on page 59 of the risk analysis, after the 2012 EC FVO audit, and in collaboration with external animal health experts, Argentina revised its surveillance sampling design in order to confirm adequate vaccination coverage in its territory. The revised sampling design focuses on the effectiveness of various vaccination campaign plans as implemented by the local offices. At the time of APHIS' November 2013 site visit, over 50 percent of samples had already been collected with only two reactors identified. APHIS notes that the reactor animals are not suspect for FMD or other diseases; the reaction could be related either to immunity as a result of vaccination or to the presence of proteins in the vaccine. On completion of the study, SENASA expects to be able to compare effectiveness of operational implementation of the National Vaccination Plan at the local level. Vaccination coverage rates in Northern Argentina have been reported at over 97 percent. In reference to the Bolivian border, APHIS recognizes that some borders in the northern part of Argentina might be porous, and that other mitigations might be required in such areas in the event Argentina would request to export a particular commodity into the United States. APHIS notes, however, that such borders are located over 2,500 miles from the region that is under consideration in this notice.

One commenter stated that the EC FVO audits showed a limited contribution of passive surveillance to the detection and notification of suspect cases of FMD. The commenter asked if the current system of passive surveillance in Argentina is really working, and asked how the system of passive surveillance could work effectively if it is not actively pursued.

The reporting of FMD suspect cases is infrequent in the Patagonia Region; APHIS believes that this is because FMD is not present in the region and other vesicular diseases are rare. As we noted on page 24 of the risk analysis, there were no reports of suspect vesicular diseases in 2012 or 2013 in the Patagonia Region. To assess the ability of veterinary officials at local offices to respond to a suspicious case of disease, the site visit team asked to view records of reports of a suspected notifiable disease (in this case, mange) during the 2009 site visit. The information shared revealed that a visit to the affected farm was made within 24 hours of the report, and all animals on the farm were inspected, with samples collected and submitted to the laboratory on the same day. The farm was immediately quarantined upon the report of the suspect case and the quarantine remained in place throughout the

duration of the investigation. At the initial visit, neighboring farms were contacted to alert the owners of the disease suspicion, and the owners were told to make their animals available for inspection.

Finally, APHIS notes that the data provided in our risk analysis are more up-to-date than those provided by the EC FVO audits. Further surveillance efforts from 2001 to 2013 are described on page 57, surveillance efforts specifically in Patagonia North A are described on page 58, and other ongoing surveillance efforts on page 59. Based on those findings APHIS concluded that the design under which serological sampling is conducted in Argentina is both valid and efficient and the sampling coverage is adequate and that the serological sampling is adequate to detect disease and identify and measure viral activity (if any) in the area.

A commenter stated that the EC FVO audits present wildlife issues as a concern for the continued management of FMD risk. The commenter stated specifically that this issue required investigations to assess the risk associated with the presence of pigs and wild boars in the areas neighboring Bolivia and Paraguay, and their possible exposure to feeding practices that may carry a risk of introduction of the FMD virus.

Although several South American wild animal species are susceptible to FMD, research into FMD in South America has determined that wildlife populations, including feral swine, do not play a significant role in the maintenance and transmission of FMD. During outbreak situations, wildlife may become affected by FMD; however, as we discussed on pages 15–16 of the environmental assessment, the likelihood that they would become carriers under field conditions is rare. Therefore, it is unlikely that FMD would be introduced into the Patagonia Region through movement of infected wildlife. The active surveillance on wild boars conducted in 2013 is described on page 58 of the risk analysis. In the serological study conducted in swine, a total of 462 samples were collected from 76 establishments in Patagonia North A. The wildlife surveillance consisted of a total of 21 samples. All porcine samples were tested using the LF ELISA test with negative results.

Furthermore, feeding garbage to animals is prohibited in Argentina unless specific products undergo a cooking process guaranteeing destruction of pathogenic organisms (pages 21 and 22 of the risk analysis). In the event that these laws were circumvented, other factors evaluated in the risk analysis, including biosecurity measures and response capabilities, would mitigate disease risks.

Two commenters stated that wildlife may move across traversable national boundaries and infect other wildlife and livestock. One of the commenters stated that while the environmental assessment seeks to address wildlife issues and FMD risk, there have not been enough wildlife studies or efforts to document the natural wildlife movements in Patagonia or the surrounding regions. The commenter further stated that no ideas have been advanced to identify practical mitigation measures for wildlife species.

As we explained earlier, research into FMD in South America has determined that wildlife populations, including feral swine, do not play a significant role in the maintenance and transmission of FMD. During outbreak situations, wildlife may become affected by FMD; however, the likelihood that they would become carriers under field conditions is rare and it is unlikely that FMD would be introduced into the Patagonia Region through movement of infected wildlife.

One commenter stated that there are clear weaknesses within Argentina's standards of surveillance and management practices, specifically inadequate import controls and quarantine procedures, that could put the U.S. beef supply at risk.

APHIS disagrees with the commenter. We found no evidence of weakness in the import controls or quarantine procedures in the Patagonia Region and are confident that they provide effective protection against the introduction of FMD to the region.

One commenter stated that a November 2013 report confirmed that Brazil and Argentina were beginning a second round of vaccination for FMD. The commenter stated that this shows that Argentina had not previously made serious efforts to address its disease problem.

There is no vaccination for FMD in the Patagonia Region. APHIS does not recognize regions that vaccinate for FMD as free of the disease. The vaccination activities that occur in other regions of Argentina and in Brazil are part of the FMD control program in those regions.

One commenter asked how APHIS would monitor and verify compliance with the measures and restrictions that APHIS would place on the importation of animals and animal products into the United States. The commenter stated that in addition to monitoring processing operations and sampling, and in addition to OIE reporting requirements, the responsible government agencies of the exporting region should be required to submit data and status review information regularly, as is done in the United States between APHIS and State animal health agencies. The commenter stated that these measures, in addition to follow-up site visits and risk monitoring, would further assure that the appropriate systems and procedures are being followed.

Under the provisions of § 92.2(g), regions that are granted animal health status may be required to submit additional information pertaining to animal health status or allow APHIS to conduct additional information collection activities in order to maintain that status. Specifically, we ask for additional information if they report suspect or known cases of disease to the OIE; if we receive public information about suspect or known cases of disease; if the region that was previously evaluated has been re-defined; if there are public reports stating changes in the veterinary authority, budgets, or controls in border areas; if there are outbreaks or suspect cases in border regions; or if there are changes in any of the other factors we consider when preparing a risk analysis. We do not require submission of additional information on a regular schedule because we are concerned primarily with events that could potentially affect the risk status of the region under consideration.

One commenter stated that there was no indication of ongoing verification of risk control measures other than APHIS personnel may inspect slaughter establishments periodically. The commenter stated that a more routine and rigorous system of verification should be established.

As we explained above, regions that are recognized for animal health status may be required either to provide or to allow APHIS to collect additional information in order to maintain their status if we have reason to believe that events in the region or in surrounding regions could affect the risk status of the region under consideration. We also note that APHIS uses a wide variety of sources to conduct verification activities in the Patagonia Region. These sources include the U.S. Embassy, multilateral relationships with trading partners, and the OIE.

One commenter stated that, according to APHIS reports to the U.S. Animal Health Association's Transmissible Diseases of Swine Committee, from 2009 to 2013 a number of unlicensed garbage feeders were found in the United States each year by State and

Federal animal health authorities. The commenter asked if APHIS has any supporting information that estimates the number of unlicensed garbage-feeding facilities.

Searches for non-licensed garbage feeding facilities are regularly conducted using several different techniques as part of the duties of APHIS animal health staff, as well as State animal health staff and staff with other State agencies. When unlicensed garbage feeding facilities are identified, the unauthorized activity is documented and the facility is brought into compliance. Depending on the State, all swine on the premises may be quarantined and tested for foreign animal diseases. Information on the number of inspections conducted to detect unlicensed garbage feeding facilities, the number of unlicensed facilities identified, and resolution of unlicensed facilities are captured at the State level and evaluated by APHIS on a regular basis. We do not find the number of unlicensed garbage-feeding facilities to be too large or their existence to pose a risk of FMD given the regular monitoring for them.

One commenter stated that according to the risk analysis, APHIS considers the most likely pathway of exposure of domestic livestock to FMD is through feeding of contaminated food waste to swine, but that APHIS considers the likelihood of exposure of susceptible swine to the FMD virus through inadequately processed food waste to be low. The commenter stated that this position is based on a 1995 risk analysis and a 2001 survey, and that the pork industry has undergone significant changes since then. The commenter asked what confidence APHIS has that these sources adequately reflect the current risk to the U.S. pork industry, and if the 1995 work should be repeated with more current data.

APHIS acknowledges that the pork industry in general has undergone significant changes since 1995; however, the garbage-feeding industry in particular has not. APHIS is confident that the 1995 risk analysis and 2001 survey adequately reflect the current risk to the U.S. pork industry from contaminated food waste fed to swine.

One commenter stated that under the Swine Health Protection Act, licensed facilities are required to have two to four temperature checks of garbage cooking equipment every year. The commenter asked what records licensed facilities maintain in order to verify that they are meeting the time and temperature requirements on days when they are not inspected, and if those records are adequate to provide assurance to APHIS that times and temperatures are being met outside of normal inspections.

During regularly scheduled visits to licensed waste feeding operations, inspectors observe the cooking procedure to ensure the operator understands the proper procedures and is able to conduct them properly. If there are any suspicions that cooking is not being properly conducted, the inspector will make additional unscheduled visits to ensure that cooking procedures are sufficient to ensure inactivation of any pathogens, if present. APHIS believes that this approach helps to ensure proper cooking time and temperature even when inspectors are not present.

One commenter asked about APHIS' confidence that FMD would be detected early in licensed garbage feeding operations. The commenter also asked what we estimated the time for detection would be and if it would be adequate to meet the goals of the Foreign Animal Disease Preparedness and Response Plan (FAD PReP) for disease detection.

Because of the routine visits of inspectors to garbage feeding facilities, which provide opportunities for education on disease signs and requirements for reporting, as well as the opportunity for direct observation of signs of illness in animals, APHIS believes that the presence of FMD or other reportable conditions would be detected more quickly in these types of premises than in other, unregulated premises.

One commenter stated that effective surveillance for vesicular diseases relies on a high level of awareness by producers and veterinarians on what clinical signs are consistent with vesicular diseases and how to report suspected cases. The commenter asked if APHIS had current demographics on the level of biosecurity, security, veterinary care, routine health observations, and knowledge of disease reporting pathways in garbage-fed populations to meet the goal of a FAD PReP. The commenter also asked what level of confidence APHIS has regarding the education provided to licensed garbage feeders, whether biosecurity and veterinary care protocols are being followed; and whether disease reporting procedures are being followed.

Licensed garbage feeders are generally provided with education during routine inspections by animal health regulatory staff on topics including the importance of proper cooking, signs of foreign animal diseases, appropriate biosecurity measures, etc. Mandatory inspections provide confidence in the ability of licensed garbage feeding operations to maintain biosecurity and reporting requirement protocols. Demonstration of adequate facilities and equipment is a requirement for obtaining and maintaining licensure.

One commenter asked what level of confidence we have that FMD would be detected in unlicensed garbage-feeding operations, and what the estimated time for detection would be.

If FMD were to occur in an unlicensed garbage feeding facility, APHIS estimates that likelihood of detection would be no different than introduction into any swine herd.

One commenter asked if budget cuts to APHIS and State animal health staffs have had a negative effect on the ability to carry out the regulatory activities outlined in the Swine Health Protection Act, and if the reduction in regulatory activities had decreased the number of inspections and searches for unlicensed garbage-feeding operations to a level lower than what was used in the 1995 risk analysis.

While budget cuts to APHIS have resulted in reorganizing priorities within the Swine Health Program (SHP), our SHP activities remain at recommended levels. The changes made have resulted in shifting of lower-yield activities in favor of allowing SHP inspectors to spend more time interacting with swine producers. For instance, APHIS no longer supports State and Federal employees conducting regular trips to restaurants to inquire about garbage disposal. Instead, this activity has been passed to other State partners, including public health and environmental health employees, who routinely frequent restaurants as part of their daily activities. These individuals report to State cooperators when they uncover suspicions of unlicensed garbage feeding, which allows APHIS inspectors and State cooperators to focus on likely violations. This, in turn, allows inspectors to spend more time on swine farms, working with producers, providing education, and performing inspections, among other duties.

One commenter stated that according to the sixth edition (2013) of the OIE Tool for the Evaluation of Performance of Veterinary Services, stability of structures, sustainability of policies, and operational funding are listed as critical competencies for institutional and financial sustainability. The commenter asked how confident APHIS is that the short- and long-term levels of funding for SENASA are adequate to carry out their mission related to this proposed rule.

As described on page 17 of the risk analysis, SENASA reported that its 2013 budget was 1.3 billion pesos (approximately $200.7 million). SENASA officials described the system as self-sufficient because user fees are required for almost every service SENASA provides, including slaughter surveillance, issuances of certificates, and laboratory tests. The budget for the laboratory is 60 million pesos (approximately $12 million). APHIS finds no reason to believe that the funding will change, as stable funding for the FMD control and eradication programs in Argentina has been in place for over a decade.

One commenter asked whether APHIS' funding levels are adequate to carry out the agency's mission, especially verification of practices conducted in Patagonia.

While APHIS' funding levels have decreased in recent years, we are still confident in our ability to carry out our mission successfully. As we explained above, APHIS uses a wide variety of sources to conduct verification activities in the Patagonia Region, including the U.S. Embassy, multilateral relationships with trading partners, and the OIE.

Two commenters stated that some of the supporting documentation is in a foreign language and no official translation was provided. One commenter stated that while stakeholders could shoulder the cost burden to have the material translated, it would not constitute an official translation.

In addition to the risk analysis and other supporting documents, APHIS provided the public with documents that were referred to in the risk analysis. Some of these documents were provided by the Government of Argentina and are in Spanish. These documents include presentations that were done at the local offices. For the documents that have not been officially translated for the public, APHIS verified the data when conducting the site visit. This information, including data analysis and conclusions, is thoroughly described throughout the risk analysis that was made available for public comment.

Many commenters noted that there was no economic impact analysis associated with this notice. One commenter stated that while an economic analysis is not required for risk evaluation notices, the economic analysis for the 2007 proposed rule had deficiencies. Others stated that infected beef entering the United States could have a negative impact on our domestic livestock supply and economy. The commenters stated the economic risk of an FMD outbreak to the U.S. livestock industry is too great to take any action that increases the risk to the domestic cattle herd. These commenters stated that a new economic analysis for animals and animal products should be prepared and made available to the public for review and comment.

The commenter is correct that an economic analysis is not required for risk evaluation notices. APHIS has determined that susceptible commodities imported from the Patagonia Region pose a very low risk of introducing FMD into the United States and that these products can be safely imported. This determination is based on the lack of FMD virus circulating in the Patagonia Region, the Argentine regulatory and industry safeguards that would likely arrest the spread of FMD should it be introduced into the region and prevent exports of infected commodities, and, APHIS' regulatory safeguards, including quarantine of live imported animals. As we explained above, we are confident that APHIS' regulatory safeguards will provide effective protection against the risks associated with the importation of ruminants or their products from the Patagonia Region of Argentina.

One commenter stated that even with a robust emergency management system in the United States, the mobility and demographics of susceptible livestock and products in the United States would allow for the probable spread of FMD to many States before it could be contained. The commenter further stated that the accidental introduction of FMD into the United States would cost producers, consumers, and governments billions of dollars in lost revenue, response overhead, increased retail costs, and long-term loss of consumer confidence.

While we agree with the commenter that the expected consequences of an FMD outbreak in the United States would be severe, the likelihood of such an outbreak occurring due to exposure of the domestic livestock population to FMD-susceptible animals and products imported from the Patagonia Region of Argentina is very low. Therefore, the overall risk of FMD to U.S. animal health from imports of these commodities is also very low.

The commenter stated that the United States has defended its decision to reject beef from Argentina citing general sanitary issues. The commenter stated that Argentina demanded that the U.S. market be opened to their exports but have not taken appropriate action to address their sanitary issues.

APHIS disagrees with the commenter. Our evaluation shows that Argentina, as discussed in the risk analysis, has taken the necessary action to address FMD issues.

Based on the evaluation and the reasons given in this document in response to comments, we are recognizing the Patagonia Region of Argentina as free of FMD and rinderpest. The lists of regions recognized as free of these diseases can be found by visiting the APHIS Web site at *http://www.aphis.usda.gov/wps/portal/aphis/ourfocus/importexport* and following the link to ''Animal or Animal Product.'' Copies of the lists are also available via postal mail, fax, or email upon request to the Regionalization Evaluation Services, National Import Export Services, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road Unit 38, Riverdale, Maryland 20737.

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 26th day of August 2014.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–20646 Filed 8–28–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—FNS User Access Request Form FNS–674

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection. This is a revision of a currently approved collection. The purpose of this information collection request is to continue the use of the electronic form FNS–674, titled ''User Access Request Form.'' This form will continue to allow access to current FNS systems, modify access or remove user access.

DATES: Written comments must be received on or before October 28, 2014.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate

of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were 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 those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Leo Wong, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 317, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Leo Wong at 703–605–4273 or via email to *Leo.Wong@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Leo Wong at 703–605–1181.

SUPPLEMENTARY INFORMATION:

Title: User Access Request Form.

Form Number: FNS–674.

OMB Number: 0584–0532.

Expiration Date: 1/31/2015.

Type of Request: Revision of a currently approved collection.

Abstract: Form FNS–674 is designed to collect user information required to gain access to FNS Information Systems.

Affected Public: Contractors, State Agencies.

Estimated Number of Respondents: 2,700.

The respondents are State agencies, who are located in the 50 states and Trust Territories, staff contractors and Federal employees. Respondents who require access to the FNS systems are estimated at 3,600 annually (includes Federal, State and private) however, only 2,700 will account for the total public burden, excluding Federal employees. FNS estimates that it will receive an average of 300 requests per month (15 per day). Of the 300, 70 percent (or 210) of the responses are State Agency users, 5 percent (or 15) are staff contractors and 25 percent (or 75) are Federal employees which is not included in the total number of responses. Annually, that results in 2,700 respondents (210 State Agency users per month + 15 staff contractors per month × 12 months).

Estimated Number of Responses per Respondent: 1.9.

Estimated Total Annual Responses: 5,220.

Estimated Time per Response: 0.167 of an hour.

Each respondent takes approximately 0.167 of an hour, or 10 minutes, to complete the required information on the online form.

Estimated Total Annual Burden on Respondents: 870 hours.

See the table below for estimated total annual burden for each type of respondent.

REPORTING BURDEN

Affected public	Form number	Number of respondents	Number of responses annually per respondent	Total annual responses	Estimate of burden hours per response	Total annual burden hours
Contractors	FNS–674	180	1	180	0.16667 (10 minutes).	30
State Agency Users	FNS–674	2,520	2	5,040	0.16667 (10 minutes).	840
Annualized Totals		2,700	1.9	5,220	10 minutes	870

Dated: August 19, 2014.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2014–20536 Filed 8–28–14; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Plan Revisions for the Inyo, Sequoia and Sierra National Forests; California and Nevada

AGENCY: Forest Service, USDA.

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

SUMMARY: As directed by the National Forest Management Act, the USDA Forest Service is preparing the revised land management plans (forest plans) for the Inyo Sequoia and Sierra National Forests. The agency will prepare a joint environmental impact statement (EIS) for these three revised plans. The revised forest plans will supersede existing forest plans previously approved by the responsible official on the Inyo National Forest in 1988, the Sequoia National Forest in 1988 and the Sierra National Forest in 1992. The existing forest plans have been amended several times since their approval, including the 2004 Sierra Nevada Forest Plan Amendment. The Giant Sequoia National Monument (Monument) Management Plan, which amends the land management plan for the Sequoia National Forest, will be incorporated as a subset of the Sequoia's revised forest plan. Provisions of the 1990 Mediated Settlement Agreement to the Sequoia National Forest Land Management Plan, applicable to National Forest System lands outside of the Monument, will be addressed in the EIS for forest plan revision. The existing forest plans, as amended, remain in effect until the revised forest plans are approved. The plans will be revised under the 2012 Planning Rule and will provide for social, economic and ecological sustainability within Forest Service authority and the inherent capability of the plan area.

DATES: Comments concerning the proposed action in this notice will be most useful in the development of the draft revised forest plans and EIS if received by September 29, 2014. The draft EIS is expected in spring 2015. The final EIS is expected in spring 2016.

ADDRESSES: Please provide comments using the following Web site: *http://tinyurl.com/r5earlyadopters.* We will also accept comments mailed to Maria Ulloa, Forest Plan Revision, 1839 So. Newcomb Street, Porterville, CA 93257 or emailed to *r5planrevision@fs.fed.us.* When providing comments, clearly indicate which forest or forests your comments apply to.

FOR FURTHER INFORMATION CONTACT: Mike Dietl, Plan Revision Team Leader, *michaeldietl@fs.fed.us,* 707–562–9121. Information on plan revision is also available at *http://tinyurl.com/r5earlyadopters.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Lead and Cooperating Agencies

The USDA Forest Service is the lead agency. Inyo County is a designated cooperating agency in this plan revision effort.

Responsible Officials

The Forest Supervisor is the responsible official for plan revision on each forest.

Ed Armenta, Forest Supervisor, Inyo National Forest Service, 351 Pacu Lane, Suite 200, Bishop, CA 93514.

Kevin Elliott, Forest Supervisor, Sequoia National Forest, 1839 South Newcomb Street, Porterville, CA 93257.

Dean Gould, Forest Supervisor, Sierra National Forest Service, 1600 Tollhouse Road, Clovis, CA 93611.

Purpose and Need for Action

The purpose is to revise the forest plans for the Inyo, Sequoia and Sierra National Forests as guided by the 2012 Planning Rule (36 CFR part 219). According to the National Forest Management Act, forest plans are to be revised on a 10 to 15 year cycle. Current plans for the Inyo, Sequoia and Sierra National Forests were approved between 1988 and 1992 and are due for revisions. Responsible officials used science-based assessments and considered public and employee input to identify needed changes to existing plans. They have identified the following areas where changes are needed:

Benefits to People and Communities

There is a need to update plan direction to: Support the long term sustainability of forest benefits to people and contributions to local economies, which come as a result of the many uses of National Forest System lands; to encourage the use of partnerships with private and public entities and tribal stewardship opportunities; and to improve communication and outreach to the public, including underrepresented populations.

There is a need to update plan direction to move toward resilience of forests to climate change and fire, ensuring that they provide benefits to people.

There is a need to modify plan components to maintain levels of forest product and biomass production that support an economically-viable forest products industry, and to encourage local hiring.

Tribal Relations and Uses

There is a need to include plan direction regarding tribal relations and uses to: Help tribes maintain their culture and connection to the land; support economic opportunities in tribal communities; incorporate traditional ecological knowledge; and collaborate with the agency to meet restoration goals.

Sustainable Recreation

There is a need to update plan direction to improve recreation facilities, settings, opportunities and access and their sustainability; and to improve and protect scenic character, which contributes to people's recreation experience and sense of place.

There is a need to proactively manage cultural resources to protect and improve the conditions of these resources and help connect people to the land.

Fire

There is a need to add plan direction to improve fire management to recognize climate change.

There is a need to modify wildfire management areas and associated plan direction to increase the area where fuel reduction treatments occur, while also increasing the opportunity to use fire as a restoration tool, and to modify plan direction to maintain or restore fire as an ecosystem process, especially in riparian areas.

There is a need to include plan direction that incorporates analyzing smoke tradeoffs to communities from prescribed fire or wildfire used to meet resource objectives and large, uncontrolled wildfire.

Ecological Integrity

There is a need to add plan direction to improve resilience of ecosystems to climate change.

There is a need to modify plan direction to: Increase the rate and extent of the land area where vegetation is being restored, decreasing the threat of large, undesirable fires; to sustain and increase local capacity to restore vegetation and reduce fuels; to add and modify plan direction specific to ecological integrity of eastside ecosystems that occur on the Inyo National Forest and small portions of the Sequoia National Forest; and to include plan direction for old forest, early seral habitat and subalpine and alpine systems.

There is a need to modify plan direction for terrestrial ecosystems and fire, as described above, to increase the ability of forests to store and sequester carbon.

There is a need to modify plan direction for aquatic and riparian ecosystems to maintain or improve the resilience of these ecosystems to climate change, fire, air pollution and invasive species, and to manage meadows holistically across individual resource areas, such as hydrology, soils, wildlife and vegetation.

There is a need to identify in the plans watersheds that are a priority for restoration, and to modify plan direction to improve groundwater storage and to address water shortages and climate change in riparian systems.

There is a need to modify plan direction to improve ecological conditions for the California spotted owl and to restore and maintain greater sage-grouse habitat on the Inyo National Forest. There is a need to incorporate new information and conservation practices into plan direction to contribute to the recovery of federally-listed species (including candidates and proposed) and to streamline project planning.

There is a need to modify plan direction to prevent the establishment and spread of invasive species.

Lands

There is a need to incorporate lands acquired by the Inyo National Forest through the Nevada Enhancement Act into the forest plan.

Designated Areas

There is a need to: Review existing plan direction for existing and recommended wilderness to determine if any updates are needed; to review existing plan direction for wild and scenic rivers to determine if any updates are needed; to include a management area for the Pacific Crest National Scenic Trail corridor and associated management direction; and to include management direction for national recreation trails.

Proposed Action

The proposed action is to revise the existing forest plans for the Inyo, Sequoia and Sierra National Forests, as amended. Plan revision creates a new plan for the entire plan area, whether the revised plan differs to a small or large extent from the prior forest plan. In this plan revision effort, plans will be

revised to meet the requirements of the 2012 Planning Rule and to address the needed changes identified above. A detailed document that complements the following proposed action is available at *http://tinyurl.com/r5earlyadopters.* Proposed changes include the following:

General

Existing direction that is carried forward into revised plans would be converted to 2012 Planning Rule language. This would result in some existing standards and guidelines being changed to other plan components. Plan components that are no longer needed because compliance is already required as a matter of law, regulation, or policy, or that conflict with current national policy would be removed. Plan components that no longer apply, set tasks that have been completed, or refer to timeframes that are now past would be removed.

Changes would be made to some standards and guidelines from the 2004 Sierra Nevada Forest Plan Amendment (SNFPA). These standards and guidelines are referenced using SNFPA and the standard and guideline number (e.g., SNFPA 4). Specific changes are discussed in the appropriate sections below.

Current land allocations, management areas and management prescriptions would generally stay the same except as described in the sections below. Under the 2012 Planning Rule, management and/or geographic areas will replace what was previously known as land allocations, management areas and management prescriptions.

The Forest Service Pacific Southwest Region and Pacific Southwest Research Station have reviewed and incorporated the latest climate change research and modeling from the Intergovernmental Panel on Climate Change and the U.S. Climate Change Science Program to deduce likely present and future impacts to the forests of the Sierra Nevada. Their results show a general increase in temperatures, resulting in longer fire seasons and less snowpack, which melts earlier in the year. Where appropriate, plan components would be adjusted to recognize considerations of climate change.

Benefits to People and Communities

Desired conditions, guidelines and other plan content would be included to support the long term sustainability of forest benefits to people and forest contributions to local and tribal economies, including multiple uses. This direction includes resilience and sustainability to climate change of ecosystems that provide benefits and multiple uses to people.

A section would be added to the plan that provides management direction for interpretation and education. This does not exist in the current forest plans. Desired conditions, guidelines and other plan content would be included for communicating and outreaching to residents and visitors.

Partnerships with private, public and tribal entities would be encouraged in the plan and associated plan components would be developed.

Timber

Desired conditions would be added to ensure that predictable forest product yields support economic stability sufficient to maintain local industry infrastructure for use in vegetation restoration, and that forest products are produced in a sustainable manner, improving forest conditions and contributing to local community stability. Standards and guidelines would be added that address reforestation and the range of purposes for which timber harvest may occur, such as timber production, salvage and ecological restoration. Other plan content would be added that encourages the use of local forest products workforces and the use of tools such as stewardship contracts to improve the economic feasibility of vegetation management projects across large landscapes and social, economic and ecological sustainability.

Tribal Relations and Uses

A section would be added to the plan that provides management direction for tribal relations and uses. This does not currently exist in the forest plans. Desired conditions and other plan content would be included that incorporate traditional tribal ecological knowledge, cultural viewpoints and considerations in forest management; that emphasize working with tribes to develop and implement projects, through stewardship contracting and other mechanisms; and that recognize the value of incorporating traditional ecological knowledge into project development and implementation. Desired conditions and other plan content would be integrated throughout other parts of the plan to incorporate tribal considerations in resource management. Direction would be added to require communication and collaboration with tribal leadership during fire incident management.

Consideration would be given to defining and designating cultural management areas for sacred sites, areas of cultural and religious sensitivity, traditional cultural properties and significant concentrations of cultural properties.

Sustainable Recreation

The plan would be updated to reflect the guiding principles, goals and focus areas from the Forest Service National Framework for Sustainable Recreation. This includes updating or developing plan components to guide forest management in a way that sustainably:

- Connects people with their natural and cultural heritage;
- Promotes social and economic community well-being using a place-based model for recreation planning;
- Emphasizes working with partners and volunteers to help meet public needs and expectations, including the needs of youth and underserved communities;
- Provides a diverse range of quality natural and cultural recreation opportunities and settings;
- Restores and protects the natural, cultural and scenic environment, focusing on special places that are highly valued landscapes or sites;
- Promotes citizen stewardship through interpretive services and conservation education; and
- Emphasizes effective and adaptive communication in an ever-changing world.

Recreation Opportunity Spectrum (ROS) classes would be modified, as appropriate, to represent sustainable recreation settings that reflect current management or recreation activities and conditions and future use.

The Visual Management System (VMS) used in the existing forest plan would be converted to the Scenery Management System (SMS) resulting in scenic integrity objectives. The SMS supports a place-based planning approach that recognizes the value of both natural and cultural features in the landscape.

Desired conditions and other plan content for working with partners would be incorporated to demonstrate that they are integral to program of work planning and conducting sustainable recreation activities.

Plan components would be developed to focus agency efforts on each forest's distinctive recreation roles and contributions.

Cultural Resources

Desired conditions, guidelines and other plan content would be added or updated that emphasize the role that the forest plays in connecting people to their cultural heritage, offering cultural resource-based recreation and tourism opportunities and sustaining treasured places.

Desired conditions, guidelines and other plan content would be added or updated that emphasize the importance of strategic partnerships to protect the sustainability of cultural resources and promote citizen stewardship.

Consideration would be given to defining and designating cultural management areas for sacred sites, areas of cultural and religious sensitivity, traditional cultural properties and significant concentrations of cultural properties.

Fire

The current management areas for wildland urban interface (WUI) defense and threat zones from the SNFPA would be changed to a risk-based protection zone approach, which would focus fuel reduction treatments on conditions that threaten communities and assets. These protection zones would be complemented by two new zones that cover the remaining adjacent National Forest System lands, where increased opportunities for managing wildfires for ecological benefits would occur. The use of fire as a restoration tool would be emphasized in inaccessible and steeper areas where mechanical fuel and restoration treatment would be difficult or is prohibited. Proposed modification of some vegetation and wildlife standards and guidelines aligned with these zones are intended to better manage the threat of wildfire impacts to communities and other at-risk natural resource values. As a risk-based approach, these zones change over time as fuels conditions change from restoration treatments and wildfires and as there are new or changed communities, assets, or natural resource values.

The four proposed zones are:

1. Community Wildfire Protection Zone: Conditions currently put communities and community assets at very high risk. This would replace the WUI defense zone. Emphasis would be placed on mechanical and hand treatments to yield desired fire behavior conducive to more effective fire suppression. Prescribed burning is also used, especially to maintain previously treated areas. The use of wildfire to increase ecosystem resilience and provide ecological benefits is very limited.

2. General Wildfire Protection Zone: Conditions currently put communities, community assets and natural resource values at high risk of loss from wildfire. This would replace the WUI threat zone, but recognizes that fires from greater distances can threaten these areas, in part a result of climate change. This zone adds natural resource values, and the area is increased. Emphasis would be placed on mechanical and hand treatments to yield desired fire behavior conducive to more effective fire suppression and retention of desired conditions for natural resources. The use of wildfire to increase ecosystem resilience and provide ecological benefits is limited.

3. Wildfire Restoration Zone: Conditions currently put communities, community assets, watersheds and natural resource values at moderate risk of loss from wildfire. Wildfire could be used to increase ecosystem resilience and provide ecological benefits when conditions allow. Strategically located mechanical treatments and/or prescribed burning, where feasible, may be a necessary precursor to the reintroduction of wildfire to achieve desired conditions. Strategically located treatments increase the opportunity to manage wildfires to achieve desired conditions.

4. Wildfire Maintenance Zone: Conditions currently put communities, community assets, watersheds and natural resource values at low risk of loss from wildfire, and many natural resources would benefit from wildland fire. Due to low risk, wildfires are expected to be used as often as possible to maintain ecosystem resilience and provide ecological benefits when conditions allow. Mechanical treatments and/or prescribed burning, where feasible, are used to complement wildfire to achieve desired conditions.

Desired conditions and SNFPA 1–11 would be modified to incorporate the four zone approach. In the Protection Zones, plan components would be geared toward safe firefighting and protecting assets (e.g., structures and powerlines) and natural resources. In the Restoration and Maintenance Zones, plan components would emphasize effects of fire on natural resources and would be geared toward desired conditions for ecological resilience and integrity. New plan components would emphasize fire behavior and the effects on resources (e.g., habitat or timber) in terms of severity (e.g., the number of trees killed).

Air Quality

Desired conditions, guidelines, standards and other plan content would be added to allow for improved coordination with air quality regulators and with communities and to provide for a transparent analysis and clear communication regarding smoke tradeoffs from prescribed fire or wildfire used to meet resource objectives and large, uncontrolled wildfire. Other plan content would be added to consider smoke impacts to downwind communities.

Terrestrial Ecosystems

Within the Community and General Wildfire Protection Zones, to reflect the intent of the new planning rule, some standards and guidelines from the SNFPA would be converted to or replaced with desired conditions and other plan content.

Current general desired conditions would be replaced with specific, quantitative desired conditions based on ecological sustainability. Prescriptive elements on vegetation management (SNFPA 1–12 and 17–19) would be replaced with desired conditions and other plan content aimed at restoring ecological integrity and sustainability. Desired conditions would incorporate references to new science (e.g., General Technical Report 220 and 237) that better reflect resilience to fire, drought and climate change and heterogeneity beneficial to wildlife. Vegetation desired conditions would be made more specific by describing ecological outcomes as a numerical range. The importance of fire as an ecological process in vegetation types adapted to fire (e.g., mixed conifer and Jeffrey pine) would be included.

A strategy would be added that emphasizes planning and implementing projects at the landscape scale (5,000 to 100,000 acres) to increase the effectiveness and efficiency of restoring ecological resilience to fire, drought and climate change. Locations and types of restoration treatments (e.g. thinning or controlled burning) would occur within these larger areas to influence changes in effects of wildfires.

Plan components and other plan content would be added or updated for all major eastside vegetation types on the Inyo National Forest, and small portions of the Sequoia National Forest, including sagebrush, pinyon-juniper, desert shrub, and eastside oak.

Desired conditions and other plan content would be added that recognize the importance of perennial grasses in eastside ecosystems and the role they play in resilience to non-native grass invasion and resilience to fire.

The existing old forest emphasis area land allocation and desired conditions from the SNFPA would be removed because the desired conditions are general and lack specific information on desired levels of large and old trees. Forest-wide desired conditions for old forest would be added that describe desired large tree densities and the proportion of the landscape containing old forest characteristics.

Desired conditions would be added to recognize complex early seral habitat as

an important component to ecological sustainability, describing the desired proportions on the landscape, large snag and log densities and shrub cover amounts. Desired conditions would be added that integrate all ecological components of complex early seral habitat. Plan content would be added that addresses landscape consideration of the distribution and proportion of complex early seral habitats, including connectivity. A standard that addresses retention of some areas post fire with minimal resource management intervention would be added.

Desired conditions and other plan content would be added to address ecological sustainability of subalpine and alpine ecosystems omitted in earlier plans. This includes components to address threats to high elevation white pines from blister rust and bark beetle.

Desired conditions would be added for blue oak woodlands to support existing standards and guidelines from the SNFPA.

Aquatic and Riparian Ecosystems

Plan components would be added and modified to better restore, maintain and increase the resilience of aquatic and riparian ecosystems to climate change, fire, ozone and nitrogen depositions.

The term riparian conservation objective (RCO) would be dropped to avoid confusion with the 2012 Planning Rule plan component called objectives. The spirit and intent of the original RCOs would remain in other plan components. The standards and guidelines organized under RCOs would be mostly retained and reorganized. More specifically, SNFPA 91 would be modified to include the definition of riparian conservation areas, and by removing the need for a specific RCO analysis. SNFPA 92 and 93 would be removed, because they concern the RCO system and their intent is captured elsewhere in plan components and existing law.

SNFPA 109 and 111 would be replaced with other plan content to improve resilience of riparian ecosystems to fire, drought and climate change. This change would allow for increased flexibility with prescribed fire and mechanical treatment and/or hand treatments in riparian conservation areas and critical aquatic refuges where appropriate. Although the new language would emphasize more flexibility to treat in riparian areas, activities would need to be designed considering desired conditions, ensure the protection of at-risk species, and meet all necessary protection measures for water and soil.

Desired conditions would be updated for meadows to reflect an integration of vegetation, soils, hydrology and wildlife conditions. Guidelines would be added to address the ecological integrity of meadows and their connection to groundwater. Guidelines currently in place for the Inyo National Forest have replaced SNFPA 120 and 121 to further allow for an integrated ecological approach to meadow management on that forest.

New guidelines would be included to protect the spring environment and to maintain and restore native species and the ecological integrity of these systems.

Water Resources

The contribution of the national forests to water quantity and quality in California would be recognized in the plans. Plan components would be added to address the effect of climate change and drought on water quantity.

Management direction would be added to ensure compliance with new proposed groundwater directives and to further address water shortages and climate change in riparian systems.

SNFPA 106 would be modified to include language that better evaluates diversion of water on National Forest System land, including Federal Energy Regulatory Commission relicensing projects. The new language would promote collaboration with other entities involved in the hydropower relicensing process and other water use negotiations. These changes address public feedback and the need to account for climate change and threats to water quality. The changes would also address trends with drought.

The Watershed Condition Framework would continue to move forward. Priority watersheds have been identified and these would continue to be a focus for improving water quality, watersheds and aquatic and riparian ecosystem conditions.

At-Risk Species

SNFPA 53, 54, 98 and 114 which are specifically related to the three newly listed federal threatened and endangered amphibian species (Yosemite toad, Sierra Nevada yellow-legged frog and the northern distinct population segment of the mountain yellow-legged frog) would be retained but would incorporate clarifications resulting from consultation with the U.S. Fish and Wildlife Service.

Actions listed in recovery plans and conservation strategies would be considered in developing plan components that could contribute to the recovery of federally-listed species.

Existing management areas and direction for California spotted owl and northern goshawk protected activity centers and spotted owl home range core areas would be retained with clarifications and alignment of plan components. No substantive changes would be made with the following exceptions:

- Updating and clarifying the desired conditions and other plan components for these areas based on information from the California spotted owl new interim guidelines and conservation assessment, when they are available.
- Changing some standards and guidelines within the Community Wildfire Protection Zone and the General Wildfire Protection Zone to better balance the need to provide key habitat with managing the threat of wildfire impacts to communities and other values at risk. This would include minor changes to SNFPA 73 and converting and clarifying direction related to limited operating periods in SNFPA 75, 76 and 77 to guidelines.
- Adding plan content and updating and clarifying standards and guidelines to include opportunities for adaptive management related to the amount of protected activity centers that can be treated mechanically (SNFPA 80 and 81) and with prescribed burning (SNFPA 78 and 79).

Direction for the Southern Sierra Fisher Conservation Area (SNFPA 90) and fisher den sites (SNFPA 85–87) would be retained with clarifications and alignment of plan components. No substantive changes would be made, pending completion of the Southern Sierra Fisher Conservation Strategy. These management areas and associated direction would be updated or changed considering information from the conservation strategy. Other plan components in other resource areas would be aligned as needed.

Direction for Bi-State sage-grouse management from the Inyo National Forest Sage-Grouse Interim Management Policy, portions of the Humboldt Toiyabe National Forest Sage-Grouse Plan Amendment and strategies from the Rocky Mountain Research Station-led conservation strategy on habitat restoration and fire resilience would be added. Plan components and other plan content would be added to conserve sage-grouse habitat.

A list of preliminary at-risk species was identified in each forest's assessment report. During the analysis of alternatives, plan components related to ecosystem integrity and ecosystem diversity will be examined to determine if direction for ecological integrity and ecosystem diversity or for special habitats is sufficient or if additional, species-specific plan components are needed for federally-recognized

threatened, endangered, proposed or candidate species or for species of conservation concern.

Invasive Species

The existing standards and guidelines specific to noxious weed management (SNFPA 36–49) would be clarified and reorganized into desired conditions, guidelines and other plan content that address terrestrial and aquatic invasive species, including noxious plants.

Lands

Plan components with management direction for lands acquired by the Inyo National Forest through the Nevada Enhancement Act would be added.

Designated Areas

Wilderness: The 15,110 acres of the Moses Recommended Wilderness on the Sequoia National Forest, recommended in the Giant Sequoia National Monument Plan, would continue to be managed as recommended wilderness until such time as Congress designates it as an addition to the National Wilderness Preservation System. There may be new recommendations that result from the wilderness evaluations currently underway.

Wild and Scenic Rivers: The 66 miles of the San Joaquin, South Fork San Joaquin, North Fork San Joaquin and Middle Fork San Joaquin River segments that the Sierra National Forest found suitable in previous planning efforts would continue to be managed as suitable and recommended wild and scenic river segments until such time as Congress designates them as additions to the National Wild and Scenic Rivers System. One mile of the south Fork Kern River segment that the Sequoia National Forest found suitable in previous planning efforts will continue to be managed as a suitable and recommended wild and scenic river until such time as Congress designates it as an addition to the National Wild and Scenic Rivers System. There may be new recommendations that result from the wild and scenic river evaluations currently underway. For the two newly designated wild and scenic rivers on the Inyo National Forest, the revised forest plan would include direction that is applicable to all wild and scenic rivers on the forest and would identify the process and timeline for finishing comprehensive river management plans and developing a final boundary.

Pacific Crest National Scenic Trail (PCT): The PCT corridor would be identified as a management area and plan components would be added to protect the recreation experience and scenery resources along the PCT. Identification of the PCT corridor and associated direction does not currently exist in forest plans.

National Recreation Trails: Desired conditions, standards, guidelines and other plan content would be added to protect the recreation experience and scenery resources along the national recreation trails on each forest. There are three national recreation trails on the Inyo National Forest, two on the Sequoia National Forest outside the Giant Sequoia National Monument and five on the Sierra National Forest. This direction does not currently exist in forest plans.

Other Designated Areas: Other designated areas would continue to be managed for their designations under current management direction. No new designation areas are being recommended at this time.

Plan Monitoring Program

A monitoring program will be developed that meets the requirements of the 2012 Planning Rule and informs evaluation the effectiveness of forest plans. The monitoring program consists of monitoring questions and associated indicators that address the following eight items: (1) The status of select watershed conditions; (2) the status of select ecological conditions, including key characteristics, of terrestrial and aquatic ecosystems; (3) the status of focal species, selected to assess integrity of ecological systems and effects of management on ecological conditions; (4) the status of a select set of ecological conditions that contribute to the recovery of federally-listed threatened and endangered species, conserve proposed and candidate species and maintain a viable population of species of conservation concern; (5) the status of visitor use, visitor satisfaction and progress toward meeting recreation objectives; (6) measurable changes on the plan area related to climate change and other stressors that may be affecting the plan area; (7) progress toward meeting the desired conditions and objectives in the plan; and (8) the effects of each timber management system to determine that they do not substantially and permanently impair the productivity of the land. Additionally, the monitoring program may include other monitoring questions and indicators that do not address these eight items but which inform effectiveness of the plan. Monitoring programs will be designed within the financial and technical capabilities of the forests. Capability will be expanded by coordinating with partners and through the broader regional strategy currently under development.

Other Requirements and Plan Content

As part of plan revision, the Inyo, Sequoia and Sierra National Forests will also:

- Identify the suitability of areas for the appropriate integration of resource management and uses, including identifying lands not suitable for timber production;
- Identify the maximum quantity of timber that may be removed from the plan area;
- Coordinate with the Regional Forester to identify the species of conservation concern for the plan area;
- Describe the plan area's distinctive roles and contributions within the broader landscape;
- Contain information reflecting proposed and possible actions that may occur on the plan area during the life of the plan;
- Consider including optional content, such as potential management approaches or strategies and partnership opportunities or coordination activities.

Nature of Decision To Be Made

The Inyo, Sequoia and Sierra National Forests are preparing an EIS to revise their current forest plans. The EIS process will inform each Forest Supervisor's decision about which alternative best meets the need for quality land management under the 2012 Planning Rule and the sustainable multiple-use management concept, as required by the National Forest Management Act and the Multiple-Use Sustained-Yield Act. This concept seeks to meet the diverse needs of people while protecting forest resources.

Each Forest Supervisor will be signing a Record of Decision. Having one EIS is expected to help the agency gain efficiencies and complete plan revision within a reasonable timeframe and budget. The three forests share some landscapes, issues and stakeholders. Consolidating under one EIS will help streamline the process for some stakeholders and helps facilitate a landscape-level approach to plan revision.

The revised forest plans will describe the strategic intent of managing the Inyo, Sequoia and Sierra National Forests for the next 10 to 15 years. The revised forest plans will identify management and/or geographic areas and use five plan components to guide future project and activity decision making: Desired conditions, objectives, standards, guidelines and suitability of lands. Each revised plan will include other required content, such as a monitoring program. Responsible officials will determine whether to make

new recommendations for wilderness and other designated areas.

This decision will not authorize project-level activities on the three forests. The authorization of project-level activities on each forest occurs through subsequent project-specific decision making. The designation of routes, trails and areas for motorized vehicle travel is not considered during plan revision but addressed in separate analysis processes on each forest. Certain issues (e.g., hunting regulations), although important, are beyond the authority or control of the three forests and will not be considered. In addition, some decisions and determinations, such as wild and scenic river suitability determinations, may not be undertaken at this time but will be addressed in separate processes.

Public Involvement

The Inyo, Sequoia and Sierra National Forest plan revision team has provided multiple ways for the public, other agencies and tribes to contribute ideas about how current forest plans need to change or be improved. Public involvement began in earnest in 2012. Formal and informal meetings, letters, emails, phone calls, newspaper announcements and postings to the Pacific Southwest Region and forest Web sites were used to share and gather information and encourage participation. Plan revision team members gave presentations, went to the field and met with individuals and groups. Information collected from the public was used to identify needed changes in the current forest plans and desired conditions.

The forests will continue regular and meaningful consultation and collaboration with tribal nations on a government-to-government basis to address issues that significantly or uniquely affect their communities.

The forests will continue to collaborate with interested members of the public, as well as federal and state agencies, local governments and other organizations.

Applicable Planning Rule

Preparation of the revised forest plans for the Inyo, Sequoia and Sierra National Forests began with the publication of the Notice of Initiation in the **Federal Register** on December 26, 2013 [78 FR 78326] and was initiated under the planning procedures contained in the 2012 Planning Rule (36 CFR 219 (2012)).

Scoping Process

This notice of intent initiates the 30-day scoping process which guides the development of the EIS. The purpose of this process is to determine the scope of issues to be addressed and to identify the significant issues related to the proposed action. Public meetings and tribal forums to gather input on the proposed action will be held in September 2014. Additional materials, as well as the dates, times and locations of these meetings can be found at *http://tinyurl.com/r5earlyadopters.* It is important that reviewers provide their comments in a time and manner useful to the agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the scoping period and should clearly articulate the reviewer's concerns and contentions. Reviewers should clearly identify which forest or forests each of their comments applies to. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative or judicial review. Comments received in response to this solicitation, including names and addresses of those who comment, will become part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however, see the section below concerning the objection process and the requirements for filing an objection.

Decision Will Be Subject to Objection

The decisions to approve the revised forest plans will be subject to the objection process identified in 36 CFR Part 219 Subpart B (219.50 to 219.62). According to 36 CFR 219.53(a), those who may file an objection are individuals and entities who have submitted substantive formal comments related to a plan revision during the opportunities provided for public comment during the planning process.

Dated: August 20, 2014.

Barnie T. Gyant,

Deputy Regional Forester, Pacific Southwest Region.

[FR Doc. 2014–20459 Filed 8–28–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers for Publication of Legal Notices in the Eastern Region

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Forest Service administrative review procedures at 36 CFR parts 218 and 219 require agency officials to publish legal notices in newspapers of record for certain opportunities to comment and opportunities to file pre-decisional objections. Forest Service officials in the Eastern Region will publish those legal notices in the newspapers listed in the **SUPPLEMENTARY INFORMATION** section of this notice. The Eastern Region consists of Illinois, Indiana, Ohio, Michigan, Minnesota, Missouri, New Hampshire, Maine, Pennsylvania, Vermont, New York, West Virginia, and Wisconsin. As provided in 36 CFR 218 and 36 CFR 219, the public shall be advised through **Federal Register** notice, of the newspaper of record to be utilized for publishing legal notice of comment and objection opportunities required by those Parts and their associated procedures. This notice fulfills that requirement for the Eastern Region.

DATES: Use of these newspapers for purposes of publishing legal notice of opportunities to comment on proposals subject under 36 CFR part 218 and 36 CFR part 219, and notices of the opportunity to object under 36 CFR part 218 and 36 CFR part 219 shall begin the first day after the date of this publication.

FOR FURTHER INFORMATION CONTACT: Patricia Rowell; Appeals Assistant, 626 E. Wisconsin Avenue, Milwaukee, WI—414–297–3439

SUPPLEMENTARY INFORMATION: Responsible Officials in the Eastern Region will publish legal notice regarding proposed land management plans as required under 36 CFR 219.16 and legal notice regarding an opportunity to comment on proposed projects as required under 36 CFR 218.24 in the newspapers that are listed in this section by Forest Service administrative unit. Additionally, Responsible Officials in the Eastern Region will publish legal notice of the opportunity to object to a proposed project under 36 CFR part 218 or to object to a land management plan developed, amended, or revised under 36 CFR part 219 in the legal notice section of the following newspapers. Additional notice regarding an opportunity to comment or object under the above mentioned regulations may be provided in other newspapers not listed below at the sole discretion of the Responsible Official. Legal notice published in a newspaper of record of an opportunity to object is in addition to direct notice to those who have requested it and to those who have participated in planning for the project or land management plan proposal.

The timeframe for comment on a proposed action shall be based on the

date of publication of the legal notice of the proposed action in the newspaper of record. The timeframe for objection shall be based on the date of publication of the legal notice of the opportunity to object in the newspaper of record. The following newspapers will be used to provide legal notice.

Eastern Region

Regional Forester Decisions

Affecting National Forest System lands in the Eastern Region, in the states of Illinois, Indiana, Ohio, Michigan, Minnesota, Missouri, New Hampshire, Maine, Pennsylvania, Vermont, New York, West Virginia, and Wisconsin, *The Milwaukee Journal/Sentinel,* published daily in Milwaukee, Milwaukee County, Wisconsin.

Allegheny National Forest, Pennsylvania

Forest Supervisor Decisions

Warren Times Observer, Warren, Warren County, Pennsylvania

District Ranger Decisions

Bradford District: *Bradford Era,* Bradford, McKean County, Pennsylvania
Marienville District: *The Kane Republican,* Kane, McKean County, Pennsylvania

Chequamegon/Nicolet National Forest, Wisconsin

Forest Supervisor Decisions

The Northwoods River News, published Tuesdays, Thursdays, and Saturdays Rhinelander, Oneida County, Wisconsin

District Ranger Decisions

Eagle River/Florence District: *The Northwoods River News,* published Tuesdays, Thursdays, and Saturdays, Rhinelander, Oneida County, Wisconsin
Great Divide District: *The Daily Press,* published daily in Ashland, Ashland County, Wisconsin
Medford/Park Falls District: *The Star News,* published weekly in Medford, Taylor County, Wisconsin
Washburn District: *The Daily Press,* published daily in Ashland, Ashland County, Wisconsin
Lakewood/Laona District: *The Northwoods River News,* published Tuesdays, Thursdays, and Saturdays, Rhinelander, Oneida County, Wisconsin

Chippewa National Forest, Minnesota

Forest Supervisor Decisions

Bemidji Pioneer, published daily in Bemidji, Beltrami County, Minnesota

District Ranger Decisions

Blackduck District: *The American,* published weekly in Blackduck, Beltrami County, Minnesota
Deer River District: *The Western Itasca Review,* published weekly in Deer River, Itasca County, Minnesota
Walker District: *The Pilot/Independent,* published weekly in Walker, Cass County, Minnesota

Green Mountain National Forest, Vermont

Forest Supervisor Decisions

The Rutland Herald, published daily in Rutland, Rutland County, Vermont

District Ranger Decisions

Manchester, Middlebury and Rochester Districts: *The Rutland Herald,* published daily in Rutland, Rutland County, Vermont

Finger Lakes National Forest, New York

Forest Supervisor Decisions

The Ithaca Journal, published daily in Ithaca, Tompkins County, New York

District Ranger Decisions

Hector District: *The Ithaca Journal,* published daily in Ithaca, Tompkins County, New York

Hiawatha National Forest, Michigan

Forest Supervisor Decisions

The Daily Press, published daily in Escanaba, Delta County, Michigan

District Ranger Decisions

Rapid River District: *The Daily Press,* published daily in Escanaba, Delta County, Michigan
Manistique District: *The Daily Press,* published daily in Escanaba, Delta County, Michigan
Munising District: *The Mining Journal,* published daily in Marquette, Marquette County, Michigan
St. Ignace District: *The Evening News,* published daily in Sault Ste. Marie, Chippewa County, Michigan
Sault Ste. Marie District: *The Evening News,* published daily in Sault Ste. Marie, Chippewa County, Michigan

Hoosier National Forest, Indiana

Forest Supervisor Decisions

The Hoosier Times, published in Bloomington, Monroe County, and Bedford, Lawrence County, Indiana

District Ranger Decisions

Brownstown District: *The Hoosier Times,* published in Bloomington, Monroe County, and Bedford, Lawrence County, Indiana
Tell City District: *The Perry County News,* published in Tell City, Perry County, Indiana

Huron-Manistee National Forest, Michigan

Forest Supervisor Decisions

Cadillac News, published daily in Cadillac, Wexford County, Michigan

District Ranger Decisions

Baldwin-White Cloud Districts: *Lake County Star,* published weekly in Baldwin, Lake County, Michigan
Cadillac-Manistee Districts: *Manistee News Advocate,* published daily in Manistee, Manistee County, Michigan
Mio District: *Oscoda County Herald,* published weekly in Mio, Oscoda County, Michigan
Huron Shores District: *Oscoda Press,* published weekly in Oscoda, Iosco County, Michigan

Mark Twain National Forest, Missouri

Forest Supervisor Decisions

The Rolla Daily News, published Monday through Saturday in Rolla, Phelps County,
Missouri

District Ranger Decisions

Ava/Cassville/Willow Springs District: *Springfield News-Leader,* published daily in Springfield, Greene County, Missouri
Cedar Creek District: *Fulton Sun,* published daily in Fulton, Callaway County, Missouri
Eleven Point District: *Prospect News,* published weekly (Wednesday) in Doniphan, Ripley County, Missouri
Rolla District: *Houston Herald,* published weekly (Thursdays) in Houston, Texas County, Missouri
Houston District: *Houston Herald,* published weekly (Thursdays) in Houston, Texas County, Missouri
Poplar Bluff District: *Daily American Republic,* published daily in Poplar Bluff, Butler County, Missouri
Potosi District: *The Independent-Journal,* published weekly (Thursday) in Potosi, Washington County, Missouri
Fredericktown District: *The Democrat-News,* published weekly (Wednesday) in Fredericktown, Madison County, Missouri
Salem District: *The Salem News,* published weekly (Tuesday) in Salem, Dent County, Missouri

Midewin Tallgrass Prairie, Illinois

Prairie Supervisor Decisions

The Herald News, published daily in Joliet, Will County, Illinois

Monongahela National Forest, West Virginia

Forest Supervisor Decisions

The Inter-Mountain, published daily in Elkins, Randolph County, West Virginia

District Ranger Decisions

Cheat-Potomac District: *The Grant County Press,* published weekly in Petersburg, Grant County, West Virginia Gauley District: *The Nicholas Chronicle,* published weekly in Summersville, Nicholas County, West Virginia

Greenbrier District: *The Pocahontas Times,* published weekly in Marlinton, Pocahontas County, West Virginia

Marlinton-White Sulphur District: *The Pocahontas Times,* published weekly Marlinton, Pocahontas County, West Virginia

Ottawa National Forest, Michigan

Forest Supervisor Decisions

The Ironwood Daily Globe, published in Ironwood, Gogebic County, Michigan; except, for those projects located solely within the Iron River District, *The Reporter,* published in Iron River, Iron County, Michigan

District Ranger Decisions

Bergland, Bessemer, Kenton, Ontonagon and Watersmeet Districts: *The Ironwood Daily Globe,* published in Ironwood, Gogebic County, Michigan

Iron River District: *The Reporter,* published in Iron River, Iron County, Michigan

Shawnee National Forest, Illinois

Forest Supervisor Decisions

Southern Illinoisan, published daily in Carbondale, Jackson County, Illinois

District Ranger Decisions

Hidden Springs and Mississippi Bluffs Districts: *Southern Illinoisan,* published daily in Carbondale, Jackson County, Illinois

Superior National Forest, Minnesota

Forest Supervisor Decisions

Duluth News-Tribune, published daily in Duluth, St. Louis County, Minnesota

District Ranger Decisions

Gunflint District: *Cook County News-Herald,* published weekly in Grand Marais, Cook County, Minnesota

Kawishiwi District: *Ely Echo,* published weekly in Ely, St. Louis County, Minnesota

LaCroix District: *Mesabi Daily News,* published daily in Virginia, St. Louis County, Minnesota

Laurentian District: *Mesabi Daily News,* published daily in Virginia, St. Louis County, Minnesota

Tofte District: *Duluth News-Tribune,* published daily in Duluth, St. Louis County, Minnesota

Wayne National Forest, Ohio

Forest Supervisor Decisions

Athens Messenger, published daily in Athens, Athens County, Ohio

District Ranger Decisions

Athens District-Marietta Unit: *Athens Messenger,* published daily in Athens, Athens County, Ohio

Ironton District: *The Ironton Tribune,* published daily in Ironton, Lawrence County, Ohio

White Mountain National Forest, New Hampshire and Maine

Forest Supervisor Decisions

The New Hampshire Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire.

District Ranger Decisions

Androscoggin District: *The New Hampshire Union Leader,* published daily in Manchester, County of Hillsborough, New Hampshire; except, for those projects located solely within the State of Maine, the *Lewiston Sun-Journal,* published daily in Lewiston, County of Androscoggin,Maine

Pemigewasset District: *The New Hampshire Union Leader,* published daily in Manchester, County of Hillsborough, New Hampshire

Saco District: *The New Hampshire Union Leader,* published daily in Manchester, County of Hillsborough, New Hampshire; except, for those projects located solely within the State of Maine, the *Lewiston Sun-Journal,* published daily in Lewiston, County of Androscoggin, Maine

Dated: August 25, 2014.

Gene Blankenbaker,

Deputy Regional Forester.

[FR Doc. 2014–20623 Filed 8–28–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Implantation and Recovery of Archival Tags.

OMB Control Number: 0648–0338.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 35.

Average Hours per Response: Tag recovery, 30 minutes; tag implantation notification and annual reports, 40 minutes each; interim reports, 1 hour each.

Burden Hours: 47.

Needs and Uses: This request is for extension of a currently approved information collection.

The National Oceanic and Atmospheric Administration (NOAA) allows scientists to implant archival tags in, or affix archival tags to, selected Atlantic Highly Migratory Species (tunas, sharks, swordfish, and billfish). Archival tags collect location, temperature, and water depth data that is useful for scientists researching the movements and behavior of individual fish. It is often necessary to retrieve the tags in order to collect the data. Therefore, the National Marine Fisheries Service (NMFS) exempts persons catching tagged fish from certain otherwise applicable regulations at 50 CFR 635 (e.g., immediate release of the fish, minimum size, prohibited species, retention limits). These participants must notify NOAA, return the archival tag or make it available to NOAA personnel, and provide information about the location and method of capture if they harvest a fish that has an archival tag. The information obtained is used by NOAA for international and domestic fisheries policy and regulations.

Scientists not employed by NOAA must obtain NOAA authorization before affixing or implanting archival tags and submit subsequent reports about the tagging of fish. NOAA needs that information to evaluate the effectiveness of archival tag programs, to assess the likely impact of regulatory allowances for tag recovery, and to ensure that the research does not produce excessive mortality.

Affected Public: Not-for-profit institutions; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary; required to retain or obtain benefits.

This information collection request may be viewed at *reginfo.gov.* Follow

the instructions to review Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or faxed to (202) 395–5806.

Dated: August 25, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–20562 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology.

Title: Manufacturing Extension Partnership (MEP) Client Impact Survey.

OMB Control Number: 0693–0021.

Form Number(s): None.

Type of Request: Regular submission (extension of currently approved information collection).

Number of Respondents: 10,000.

Average Hours per Response: 10 minutes.

Burden Hours: 1,667.

Needs and Uses: The objective of the NIST Manufacturing Extension Partnership Program (MEP) is to enhance productivity, technological performance, and strengthen the global competitiveness of small-and medium-sized U.S.-based manufacturing firms. Through this client impact survey, the MEP will collect data necessary for program accountability; analysis and research into the effectiveness of the MEP program; reports to stakeholders; Government Performance and Results Act; continuous improvement efforts; knowledge sharing across the MEP system; and identification of best practices. Collection of this data is needed in order to comply with the MEP charter, as mandated by Congress.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: August 26, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–20566 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Surveys of American Samoa, Guam and the Commonwealth of the Northern Mariana Islands (CNMI) Small Boat-Based Fisheries.

OMB Control Number: 0648–0635.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 180.

Average Hours per Response: 10 minutes.

Burden Hours: 80.

Needs and Uses: This request is for extension of a currently approved information collection.

The National Marine Fisheries Service (NMFS) collects information about fishing expenses in the American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) boat-based reef fish, bottomfish, and pelagics fisheries with which to conduct economic analyses that will improve fishery management in those fisheries; satisfy NMFS' legal mandates under Executive Order 12866, the Magnuson-Steven Fishery Conservation and Management Act (U.S.C. 1801 et seq.), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act; and quantify achievement of the performances measures in the NMFS Strategic Operating Plans. An example of these performance measures: the economic data collected will allow quantitative assessment of the fisheries sector's social and economic contribution, linkages and impacts of the fisheries sector to the overall economy through Input-output (I–O) models analyses. Results from I–O analyses will not only provide indicators of social-economic benefits of the marine ecosystem, a performance measure in the NMFS Strategic Operating Plans, but also be used to assess how fishermen and economy will be impacted by and respond to regulations likely to be considered by fishery managers. These data are collected in conjunction with catch and effort data already being collected in this fishery as part of its creel survey program.[1] Participation in the economic data collection is voluntary.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or faxed to (202) 395–5806.

Dated: August 25, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–20563 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–109–2014]

Foreign-Trade Zone 83—Huntsville, Alabama; Application for Subzone; General Electric Company; Decatur, Alabama

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Huntsville-Madison County Airport Authority, grantee of FTZ 83, requesting subzone status for the facility of General Electric Company located in Decatur, Alabama. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–

[1] The Creel Survey Program is one of the major data collection systems to monitor fisheries resources in these three geographic areas. The survey monitors the islands' fishing activities and interviews returning fishermen at the most active launching ramps/docks during selected time periods on the islands.

81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on August 25, 2014.

The proposed subzone (128 acres) is located at 2328 Point Mallard Drive in Decatur. The proposed subzone would be subject to the existing activation limit of FTZ 83. No authorization for production activity has been requested at this time.

In accordance with the 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 Board's Executive Secretary at the address below. The closing period for their receipt is October 8, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 23, 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 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 25, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–20657 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–37–2014]

Foreign-Trade Zone 183—Austin, Texas, Authorization of Production Activity, Samsung Austin Semiconductor, L.L.C. (Semiconductors), Austin, Texas

On April 28, 2014, Samsung Austin Semiconductor, L.L.C. submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within Subzone 183B, in Austin, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (79 FR 27573, 5–14–2014). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: August 26, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–20653 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–35–2014]

Foreign-Trade Zone 177—Indianapolis, Indiana; Authorization of Production Activity; Best Chair, Inc. d/b/a Best Home Furnishings (Upholstered Furniture); Ferdinand, Cannelton, and Paoli, Indiana

On April 22, 2014, the Ports of Indiana, grantee of FTZ 177, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Best Chair, Inc. d/b/a Best Home Furnishings, in Ferdinand, Cannelton, and Paoli, Indiana.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (79 FR 25570, 3–5–2014). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14, and the existing restrictions and conditions established under Board Order 1807 (77 FR 6536, 2–8–2012).

Dated: August 22, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–20655 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 140818678–4678–01]

National Defense Stockpile Market Impact Committee Request for Public Comments on the Potential Market Impact of the Proposed Fiscal Year 2016 Annual Materials Plan

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The purpose of this notice is to advise the public that the National Defense Stockpile Market Impact Committee, co-chaired by the Departments of Commerce and State, is seeking public comments on the potential market impact of the proposed Fiscal Year 2016 National Defense Stockpile Annual Materials Plan. The role of the Market Impact Committee is to advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals involving the stockpile and related material research and development projects. Public comments are an important element of the Committee's market impact review process.

DATES: To be considered, written comments must be received by September 29, 2014.

ADDRESSES: Address all comments concerning this notice to Susan Kramer, U.S. Department of Commerce, Bureau of Industry and Security, Office of Strategic Industries and Economic Security, 1401 Constitution Avenue NW., Room 3876, Washington, DC 20230, fax: (202) 482–5650 (Attn: Susan Kramer), email: *MIC@bis.doc.gov;* and Jordan Kwok, U.S. Department of State, Bureau of Energy Resources, 2201 C Street NW., Washington, DC 20520, fax: (202) 647–4037 (Attn: Jordan Kwok), or email: *kwokpj@state.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Kramer, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: (202) 482–0117, fax: (202) 482–5650 (Attn: Susan Kramer), email: *MIC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Strategic and Critical Materials Stock Piling Revision Act of 1979, as amended (the Stock Piling Act) (50 U.S.C. 98, *et seq.*), the Department of Defense's Defense

Logistics Agency (DLA), as National Defense Stockpile Manager, maintains a stockpile of strategic and critical materials to supply the military, industrial, and essential civilian needs of the United States for national defense. Section 9(b)(2)(G)(ii) of the Stock Piling Act (50 U.S.C. 98(h)(b)(2)(G)(ii)) authorizes the National Defense Stockpile Manager to fund material research and development projects to develop new materials for the stockpile.

Section 3314 of the Fiscal Year (FY) 1993 National Defense Authorization Act (NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to ''advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile. . . .'' The Committee must also balance market impact concerns with the statutory requirement to protect the U.S. Government against avoidable loss.

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, the Treasury, and Homeland Security, and is co-chaired by the Departments of Commerce and State. The FY 1993 NDAA directs the Committee to consult with industry representatives that produce, process, or consume the materials stored in or of interest to the National Defense Stockpile Manager.

As the National Defense Stockpile Manager, the DLA must produce an Annual Materials Plan proposing the maximum quantity of each listed material that may be acquired, disposed of, upgraded, or sold by the DLA in a particular fiscal year. In Attachment 1, the DLA lists the quantities and type of activity (potential acquisition, potential disposal, or potential upgrade) associated with each material in its proposed FY 2016 Annual Materials Plan (''AMP''). The quantities listed in Attachment 1 are not acquisition, disposal, upgrade, or sales target quantities, but rather a statement of the proposed maximum quantity of each listed material that may be acquired, disposed of, upgraded, or sold in a particular fiscal year by the DLA, as noted. The quantity of each material that will actually be acquired or offered for sale will depend on the market for the material at the time of the acquisition or offering, as well as on the quantity of each material approved for acquisition, disposal, or upgrade by Congress.

The Committee is seeking public comments on the potential market impact associated with the proposed FY 2016 AMP as enumerated in Attachment 1. Public comments are an important element of the Committee's market impact review process.

Submission of Comments

The Committee requests that interested parties provide written comments, supporting data and documentation, and any other relevant information on the potential market impact of the quantities associated with the proposed FY 2016 AMP. All comments must be submitted to the addresses indicated in this notice. All comments submitted through email must include the phrase ''Market Impact Committee Notice of Inquiry'' in the subject line.

The Committee encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on September 29, 2014. The Committee will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured.

All comments submitted in response to this notice will be made a matter of public record and will be available for public inspection and copying. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission that can be placed in the public record. The Committee will seek to protect such information to the extent permitted by law.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482–1900 for assistance.

Dated: August 25, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

Attachment 1

PROPOSED FISCAL YEAR 2016 ANNUAL MATERIALS PLAN

Material	Unit	Quantity	Footnote
Sales/Upgrades/Disposals			
Beryllium Metal	ST	15.5	(1 2)
Chromium, Ferro	ST	23,500	(2)
Chromium, Metal	ST	200	(2)
Manganese, Ferro	ST	50,000	(2)
Manganese, Metallurgical Grade	SDT	322,025	(3 4 5 6)
Platinum	Tr Oz	8,380	(4 5)
Platinum—Iridium	Tr Oz	489	(4 5)
Tin	MT	804	(1 6)
Tungsten Metal Powder	LB W	77,433	(4 5 6)
Tungsten Ores and Concentrates	LB W	3,000,000	(2 6)
Zinc	ST	7,993	(4 5)
Acquisitions			
High Modulus High Strength Carbon Fibers	MT	4.5	
CZT (Cadmium Zinc Tellurium substrates)	cm^2	16,000	
TATB (Triamino-Trinitrobenzene)	LB	16,000	
Lithium Cobalt Oxide (LCO)	Kg	300	
Lithium Nickel Cobalt Aluminum Oxide (LNCAO)	Kg	1,080	
Mesocarbon Microbeads (MCMB)	Kg	1,296	
Boron Carbide	LB	65,000	
Dysprosium Metal	MT	0.5	
Ferro-niobium	MT	104.5	

PROPOSED FISCAL YEAR 2016 ANNUAL MATERIALS PLAN—Continued

Material	Unit	Quantity	Footnote
Germanium Metal	Kg	1,600	
Tantalum	Lb Ta	46,750	
Tungsten-3 Rhenium Metal	Kgs	2,500	
Yttrium Oxide	MT	10	

Footnote Key:
[1] Potential Upgrade/Rotation.
[2] Potential Disposal to Support Revenue Goals.
[3] Potential Disposal (Landfill).
[4] Actual Quantity Will Be Limited To Remaining Inventory.
[5] Inventory Depleted Based On Anticipated Rates Of Disposal, Sale, Etc.
[6] Potential Barter.

[FR Doc. 2014–20673 Filed 8–28–14; 8:45 am]
BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* August 29, 2014.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 60 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://iaaccess.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review. Rebuttal comments will be due five days after submission of initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (''Q&V'') Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name [3], should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than July 31, 2015.

	Period to be reviewed
Antidumping Duty Proceedings	
Finland: Purified Carboxymethylcellulose, A–405–803	7/1/13–6/30/14
CP Kelco Oy	
India: Polyethylene Terephthalate (PET) Film, Sheet, and Strip, A–533–824	7/1/13–6/30/14
Ester Industries Limited,	
Garware Polyester Ltd.	
Jindal Poly Films Limited of India,	
MTZ Polyesters Ltd.	
Polyplex Corporation Ltd.	
SRF Limited,	
Vacmet,	
Italy: Certain Pasta, A–475–818	7/1/13–6/30/14
Pastificio Andalini S.p.A.	
Dalla Costa Alimentare SRL.	

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Delverde Industrie Alimentari S.p.A.	
Rummo, S.p.A.	
Pasta Lensi S.r.L.	
La Molisana, S.p.A.	
Netherlands: Purified Carboxymethylcellulose, A–421–811	7/1/13–6/30/14
Akzo Nobel Functional Chemicals B.V.	
Russian Federation: Solid Urea, A–821–801	7/1/13–6/30/14
MCC EuroChem	
Taiwan: Polyethylene Terephthalate (PET) Film, Sheet, and Strip, A–583–837	7/1/13-6/30/14
Nan Ya Plastics Corporation	
Shinkong Materials Technology Corporation.	
The People's Republic of China: Circular Welded Carbon Quality Steel Pipe, A–570–910	7/1/13–6/30/14
Baoshan Iron & Steel Co., Ltd.	
Beijing Jia Mei AO Trading Co., Ltd.	
Beijing Jinghua Global Trading Co.	
Benxi Northern Steel Pipes, Co. Ltd.	
CNOOC Kingland Pipeline Co., Ltd.	
ETCO (China) International Trading Co., Ltd.	
Guangzhou Juyi Steel Pipe Co., Ltd.	
Huludao City Steel Pipe Industrial.	
Jiangsu Changbao Steel Tube Co., Ltd.	
Jiangsu Yulong Steel Pipe Co., Ltd.	
Liaoning Northern Steel Pipe Co., Ltd.	
Pangang Chengdu Group Iron & Steel Co., Ltd.	
Shanghai Zhongyou TIPO Steel Pipe Co., Ltd.	
Tianjin Baolai International Trade Co., Ltd.	
Tianjin Haoyou Industry Trade Co.	
Tianjin Longshenghua Import & Export.	
Tianjin Shuangjie Steel Pipe Co., Ltd.	
Weifang East Steel Pipe Co., Ltd.	
WISCO & CRM Wuhan Materials & Trade.	
Zhejiang Kingland Pipeline Industry Co., Ltd.	
The People's Republic of China: Tapered Roller Bearings,[4] A–570–601	6/1/13–5/31/14
Ningbo Xinglun Bearings Import & Export Co., Ltd.	
The People's Republic of China: Xanthan Gum, A–570–985	7/19/13–6/30/14
A.H.A. International Co., Ltd.	
CP Kelco (Shandong) Biological Company Limited.	
Deosen Biochemical (Ordos) Ltd.	
Deosen Biochemical Ltd.	
Hebei Xinhe Biochemical Co. Ltd.	
Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.).	
Shandong Fufeng Fermentation Co., Ltd.	
Shanghai Smart Chemicals Co., Ltd.	
Countervailing Duty Proceedings	
India: Polyethylene Terephthalate (PET) Film, Sheet, and Strip, C–533–825	1/1/13–12/31/13
Ester Industries Limited.	
Garware Polyester Ltd.	
Polyplex Corporation Ltd.	
SRF Limited.	
Jindal Poly Films Limited of India.	
Vacmet.	
MTZ Polyesters Ltd.	
Vacmet India Limited.	
Italy: Certain Pasta, C–475–819	1/1/13–12/31/13
Delverde Industrie Alimentari S.p.A.	
DeMatteis Agroalimentare S.p.A.	
Industria Alimentare Filiberto Bianconi 1947 S.p.A	
La Molisana, S.p.A.	
The People's Republic of China: Circular Welded Carbon-Quality Steel Pipe, C–570–911	1/1/13–12/31/13
Baoshan Iron & Steel Co., Ltd.	
Beijing Jia Mei AO Trade Co., Ltd.	
Beijing Jinghua Global Trading Co.	
Benxi Northern Steel Pipes, Co. Ltd.	
CNOOC Kingland Pipeline Co., Ltd.	
ETCO (China) International Trading Co., Ltd.	
Guangzhou Juyi Steel Pipe Co., Ltd.	
Huludao City Steel Pipe Industrial	
Jiangsu Changbao Steel Tube Co., Ltd.	
Jiangsu Yulong Steel Pipe Co., Ltd.	
Liaoning Northern Steel Pipe Co., Ltd.	
Pangang Chengdu Group Iron & Steel Co., Ltd.	
Shanghai Zhongyou TIPO Steel Pipe Co., Ltd.	

	Period to be reviewed
Tianjin Haoyou Industry Trade Co. Tianjin Longshenghua Import & Export. Tianjin Shuangjie Steel Pipe Co., Ltd. Weifang East Steel Pipe Co., Ltd. WISCO & CRM Wuhan Materials & Trade. Zhejiang Kingland Pipeline Industry Co., Ltd.	
Suspension Agreements	
Russia: Certain Hot-Rolled Flat Rolled Carbon-Quality Steel Products, A–821–809 Joint Stock Company Severstal. Novolipetsk Steel (NLMK).	7/1/13–6/30/14

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia v. United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[5] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Ongoing segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011 should use the formats for the revised certifications provided at the end of the *Interim Final Rule.*[6] All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[7] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final*

[4] The company name listed above was misspelled in the initiation notice that published on July 31, 2014 (79 FR 44390). The correct spelling of the company is listed in this notice.

[5] *See* section 782(b) of the Act.

[6] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*''), amending 19 CFR 351.303(g)(1) and (2); *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011).

[7] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

Rule, 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: August 22, 2014.

Gary Taverman,

Senior Advisor for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–20663 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Request for Nominations for the Industry Trade Advisory Committees (ITACs); Amendment

AGENCY: Industry and Analysis, International Trade Administration.

ACTION: Request for Nominations; Amendment.

SUMMARY: This notice amends the Department of Commerce, International Trade Administration Request for Nominations for the Industry Trade Advisory Committees (ITACs) of February 24, 2014 (79 FR 10099) to revise the eligibility criteria to permit federally-registered lobbyists to apply for membership on the ITACs. The Department of Commerce and the Office of the U.S. Trade Representative no longer maintain an eligibility restriction prohibiting federally-registered lobbyists from applying for appointment on the ITACs in light of a recent policy clarification that the eligibility restriction does not apply to advisory committee members who serve in a representative capacity. The Secretary of Commerce (the Secretary) and the United States Trade Representative (the USTR) will now consider nominations of federally-registered lobbyists for appointment on the 16 ITACs. All other eligibility criteria continue to apply. The full notice is republished in its entirety below for convenience.

In February 2014, the Secretary of Commerce (the Secretary) and the United States Trade Representative (the USTR) renewed the charters of the 16 Industry Trade Advisory Committees (ITACs) and the Committee of Chairs of the ITACs for a four-year term to expire on February 14, 2018. The ITACs provide detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade barriers, negotiation of trade agreements, and implementation of existing trade agreements affecting industry sectors; and perform other advisory functions relevant to U.S. trade policy matters as may be requested by the Secretary and the USTR or their designees.

There are currently opportunities for membership on each ITAC. Nominations will be accepted for current vacancies and those that occur throughout the remainder of the charter term, which expires on February 14, 2018.

DATES: Appointments will be made on a rolling basis. For that reason, nominations will be accepted through February 14, 2018.

ADDRESSES: Submit nominations to Ingrid V. Mitchem, Director, Industry Trade Advisory Center, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room 4043, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ingrid V. Mitchem, Director, Industry Trade Advisory Center, (202) 482–3268.

Recruitment information also is available on the International Trade Administration Web site at: *www.trade.gov/itac.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. App.) and section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155), the Secretary and the USTR have renewed the charters of 16 ITACs and the Committee of Chairs of the ITACs. The Secretary and the USTR welcome nominations for the ITACs listed below:

Industry Trade Advisory Committees on:

(ITAC 1) Aerospace Equipment
(ITAC 2) Automotive Equipment and Capital Goods
(ITAC 3) Chemicals, Pharmaceuticals, Health/Science Products and Services
(ITAC 4) Consumer Goods
(ITAC 5) Distribution Services
(ITAC 6) Energy and Energy Services
(ITAC 7) Forest Products
(ITAC 8) Information and Communications Technologies, Services, and Electronic Commerce
(ITAC 9) Building Materials, Construction, and Nonferrous Metals
(ITAC 10) Services and Finance Industries
(ITAC 11) Small and Minority Business
(ITAC 12) Steel
(ITAC 13) Textiles and Clothing
(ITAC 14) Customs Matters and Trade Facilitation
(ITAC 15) Intellectual Property Rights
(ITAC 16) Standards and Technical Trade Barriers

Background

Section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155), directed the establishment of a private-sector trade advisory system to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. Section 135(a)(1) directs the President to:

''seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

(A) Negotiating objectives and bargaining positions before entering into a trade agreement under [Subchapter I of the Trade Act of 1974 (19 U.S.C. 2111–2241) and section 2103 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803)];

(B) The operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and

(C) Other matters arising in connection with the development, implementation, and administration of the trade policy of the United States . . .''

Section 135(c)(2) of the 1974 Trade Act provides that:

''(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall—

(A) Consult with interested private organizations; and

(B) Take into account such factors as—

(i) Patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

(ii) The character of the nontariff barriers and other distortions affecting such competition,

(iii) The necessity for reasonable limits on the number of such advisory committees,

(iv) The necessity that each committee be reasonably limited in size, and

(v) In the case of each sectoral committee, that the product lines covered by each committee be reasonably related.''

Pursuant to this provision, the Department of Commerce (Commerce) and the Office of the USTR (USTR) have established and co-administer 16 ITACs, the Committee of Chairs of the ITACs, and the Industry Trade Advisory Center.

Functions

The duties of the ITACs are to provide the President, through the Secretary and the USTR, with detailed policy and technical advice, information, and recommendations regarding trade barriers, negotiation of trade agreements, and implementation of existing trade agreements affecting industry sectors; and perform other advisory functions relevant to U.S. trade policy matters as may be requested by the Secretary and the USTR or their designees. The ITACs provide nonpartisan, industry input in the development of trade policy objectives. The ITACs' efforts have assisted the United States in putting forward unified positions when it negotiates trade agreements.

The ITACs address market-access problems; barriers to trade; tariff levels; discriminatory foreign procurement practices; and information, marketing, and advocacy needs of their industry sector. Thirteen ITACs provide advice and information on issues that affect specific sectors of U.S. industry. Three ITACs focus on cross-cutting, functional issues that affect all industry sectors: Customs matters and trade facilitation (ITAC 14); intellectual property rights (ITAC 15); and standards and technical trade barriers (ITAC 16). In addition to members appointed exclusively to these three ITACs, ITACs 1–13 each may select a member to represent their ITAC as a non-voting member on each of these three cross-cutting ITACs so that a broad range of industry perspectives is represented. Other trade policy issues, e.g., government procurement, subsidies, etc., may be addressed in *ad hoc* working groups created by the ITACs.

Each ITAC meets an average of six times a year in Washington, DC. Some ITACS meet more often depending on the work of a particular committee.

Each Committee consists of members with experience relevant to the industry sector for ITACs 1 through 13 or the subject area for ITACs 14 through 16. The members serve in a representative capacity presenting the views and interests of a sponsoring U.S. entity or U.S. organization and the entity's or organization's subsector (if applicable) on trade matters. In selecting members, Commerce and USTR also consider the nominee's ability to carry out the objectives of the Committee, including knowledge and expertise of the industry and of trade matters relevant to the work of the Committee, and ensuring that the Committee is balanced in terms of points of view, demographics, geography, and entity or organization size. Because members serve in a representative capacity, they are, therefore, not Special Government Employees. Members serve at the discretion of the Secretary and the USTR.

Members serve without compensation and are responsible for all expenses incurred to attend the meetings. ITAC members are appointed jointly by the Secretary and the USTR. Each ITAC elects a chairperson from the membership of the ITAC, and that chairperson serves on the Committee of Chairs of the ITACs.

Appointments are made following the re-chartering of each ITAC and periodically throughout the four-year charter term. Appointments expire at the end of the ITACs' charter terms, in this case, on February 14, 2018.

Appointments to all ITACs are made without regard to political affiliation.

Eligibility and Application Process

The following eligibility requirements must be met:

1. The applicant must be a U.S. citizen;

2. The applicant must not be a full-time employee of a U.S. governmental entity;

3. The applicant must not be registered with the Department of Justice under the Foreign Agents Registration Act;

4. The applicant must be able to obtain and maintain a security clearance; and

5. The applicant must represent either:

a. A U.S. entity that is directly engaged in the import or export of goods or services or that provides services in direct support of the international trading activities of other entities; or

b. A U.S. organization that: Trades internationally; represents members that trade internationally; or, consistent with the needs of a Committee as determined by the Secretary and the USTR, represents members who have a demonstrated interest in international trade.

For eligibility purposes, a ''U.S. entity'' is a for-profit firm engaged in commercial, industrial, or professional activities that is incorporated in the United States (or an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by other U.S. entities. An entity is not a U.S. entity if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is known to be controlled, directly or indirectly, by non-U.S. citizens or non-U.S. entities.

For eligibility purposes, a ''U.S. organization'' is an organization, including trade associations, labor unions and organizations, and nongovernmental organizations (NGOs), established under the laws of the United States, that is controlled by U.S. citizens, by another U.S. organization (or organizations), or by a U.S. entity (or entities), as determined based on its board of directors (or comparable governing body), membership, and funding sources, as applicable. To qualify as a U.S. organization, more than 50 percent of the board of directors (or comparable governing body) and more than 50 percent of the membership of the organization to be represented must be U.S. citizens, U.S. organizations, or

U.S. entities. Additionally, in order for NGOs to qualify as U.S. organizations, at least 50 percent of the NGO's annual revenue must be attributable to nongovernmental U.S. sources.

If a nominee is to represent an entity or organization known to have 10 percent or greater non-U.S. ownership of its shares or equity, non-U.S. board members, non-U.S. membership, or non-U.S. funding sources, as applicable, the nominee must certify in its statement affirming its eligibility that this non-U.S. interest does not constitute control and will not adversely affect his or her ability to serve as a trade advisor to the United States.

Historically, the Secretary and the USTR have appointed a representative of the public health or health care community to each of ITACs 3 and 15, and an environmental representative to each of ITACs 3 and 7. The Secretary and the USTR will continue to consider nominations for representatives of such viewpoints to those ITACs.

In order to be considered for ITAC membership, a nominee should submit:

(1) Name, title, and relevant contact information of the individual requesting consideration;

(2) The ITAC for which the individual is applying for appointment;

(3) A sponsor letter on the entity's or organization's letterhead containing a brief description of why the applicant should be considered for membership on the ITAC;

(4) The applicant's personal resume demonstrating knowledge of international trade issues;

(5) An affirmative statement that the applicant meets all ITAC eligibility requirements; and

(6) Information regarding the sponsoring entity, including the control of the entity or organization to be represented and the entity's or organization's size and ownership, product or service line, and trade activities.

Submit applications to Ingrid V. Mitchem, Director, Industry Trade Advisory Center, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room 4043, Washington, DC 20230.

Additional requirements exist for nominations of consultants and legal advisors. The specific requirements will vary depending on the nature of the entity or organization and interests to be represented. Interested consultants and legal advisors should contact the Industry Trade Advisory Center or consult the International Trade Administration Web site at: *www.trade.gov/itac* for additional information on the submission requirements.

Applicants that meet the eligibility criteria will be considered for membership based on the following criteria: The applicant's ability to represent the sponsoring U.S. entity's or U.S. organization's and the entity's or organization's subsector's (if applicable) interests on trade matters; the applicant's ability to carry out the objectives of the particular ITAC (including knowledge and expertise of the industry and of trade matters relevant to the work of the ITAC); and whether the applicant's participation would ensure that the ITAC is balanced in terms of points of view, demographics, geography, and entity or organization size.

This notice is issued pursuant to the Federal Advisory Committee Act (5 U.S.C., app. 2), 19 U.S.C. 2155, and 41 CFR part 102–3 relating to advisory committees.

Dated: August 26, 2014.

Ingrid V. Mitchem,

Director, Industry Trade Advisory Center.

[FR Doc. 2014–20642 Filed 8–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD446

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper and Grouper Off the Southern Atlantic States

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

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from the Gulf and South Atlantic Fisheries Foundation, Inc. (Foundation). If granted, the EFP would authorize the applicants, with certain conditions, to collect and retain limited numbers of specimens that would otherwise be prohibited from possession and retention in South Atlantic Federal waters. This study is intended to characterize catch and discard mortality within the South Atlantic commercial hook-and-line component of the snapper-grouper fishery.

DATES: Comments must be received on or before September 29, 2014.

ADDRESSES: You may submit comments on the application, identified by ''RIN 0648–XD446'', by any of the following methods:

- Email: *Steve.Branstetter@noaa.gov.* Include in the subject line of the email comment the following document identifier: ''FND EFP''.
- Mail: Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

The application and related documents are available for review upon written request to any of the above addresses.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727–824–5305; email: *Steve.Branstetter@noaa.gov.*

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

The applicant proposes research as part of the Saltonstall-Kennedy Program, which is intended to benefit the U.S. fishing industry through the collection of fundamental fisheries information. Resource collection efforts support the development and evaluation of fisheries management and regulatory options.

The proposed collection for scientific research involves activities otherwise prohibited by regulations at 50 CFR part 622 implementing the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The applicant requires authorization to collect limited numbers of snapper-grouper and other marine resources for scientific research activities during a 24-month period beginning October 2014, where harvest and possession is otherwise restricted or prohibited by regulations. The EFP would exempt Foundation personnel from fishery regulations such as bag limits, size limits, closures, and seasonal restrictions as specified in 50 CFR part 622, subparts A and I, for snapper-grouper in the South Atlantic. Specimens would be collected from Federal waters off the east coast of Florida and Federal waters off the coasts of Georgia, South Carolina, and North Carolina. Sampling would occur during normal fishing operations of the commercial hook-and-line component of the snapper-grouper fishery. Only vessels that possess a valid Federal commercial South Atlantic unlimited snapper-grouper permit would participate in the research. The EFP

would authorize Foundation observers aboard commercial hook-and-line snapper-grouper vessels to temporarily possess all necessary specimens from the catch for documentation and to permanently retain approximately 500 specimens of federally managed finfishes and invertebrates that would otherwise be prohibited from possession and retention through the duration of the EFP. All other fish collected will either be returned to the water or retained if they are able to be included as part of the legal commercial catch. Data collections for this study would support improved information about the catch, bycatch, discards, and discard mortality for species in the snapper-grouper complex. These data would provide insight on a stock's resilience to fishing, and would help provide improved estimates of long-term biological productivity of the stocks. Currently, these data are limited, and project results are anticipated to yield valuable data within this fishery.

NMFS finds this application warrants further consideration. The limited sampling program and associated sampling methodology listed in the EFP is not expected to impact the fishery stocks; the estimated 500 fish to be retained in the 24-month period represents a small fraction of the average annual landings. Possible conditions the agency may impose on this permit, if it is granted, include but are not limited to, a prohibition of conducting research within marine protected areas, marine sanctuaries, or special management zones, without additional authorization. Additionally, NMFS will prohibit the possession of Nassau or goliath grouper, and require any sea turtles taken incidentally during the course of fishing or scientific research activities to be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water. All Foundation-associated personnel who conduct onboard sampling activities have undergone formal sea turtle handling training through NMFS, and are considered NMFS-designated agents while conducting work under the identified Cooperative Agreements.

A final decision on issuance of the EFP will depend on a NMFS review of public comments received on the application, consultations with the affected states, the South Atlantic Fishery Management Council, and the U.S. Coast Guard, and a determination that the EFP is consistent with all applicable laws.

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

Dated: August 26, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–20595 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD466

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (NPFMC) Bering Sea Aleutian Islands (BSAI) Crab Plan Team (CPT) in Seattle, WA.

DATES: The meeting will be held September 15–18, 2014. The meeting will be held from 9 a.m. until 5 p.m., each day.

ADDRESSES: The meeting will be held at the Alaska Fishery Science Center, 7600 Sand Point Way NE., Building 4, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Stram, telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Plan Team will review and make final 2014/15 recommendations on specifications (Over Fishing Levels (OFLs) and Acceptable Biological Catch (ABCs) for 7 BSAI crab stocks as well as review developing stock assessment models, and make recommendations for the next assessment cycle.

The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org/.*

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 25, 2014.

William D. Chappell,

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

[FR Doc. 2014–20532 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD469

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) will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Monday, September 15, 2014 at 8 a.m.

ADDRESSES: The meeting will be held at the Courtyard by Marriott/Boston Logan Airport, 225 McClellan Highway, Boston, MA 02128; telephone: (617) 569–5250.

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 New England Fishery Management Council's Scientific and Statistical Committee (SSC) will meet to review stock assessment information, consider information provided by the Scallop Plan Development Team (PDT) and develop overfishing level (OFL) and acceptable biological catch (ABC) recommendations for Atlantic sea scallops for fishing years 2015–16. They will review stock assessment information, consider information provided by the Groundfish PDT and

develop OFL and ABC recommendations for Gulf of Maine cod for fishing years 2015–17. The committee will address other business as necessary.

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

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 25, 2014.

William D. Chappell,

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

[FR Doc. 2014–20534 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD467

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) will hold a public outreach meeting on the Bering Sea Fishery Ecosystem Plan (FEP).

DATES: The meeting will be held on September 15, 2014, from 3 p.m. to 5:30 p.m.

ADDRESSES: The meeting will be held at the School of Fisheries and Aquatic Sciences, University of Washington, 1122 NE Boat Street, Room 203, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff, telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Council is considering whether to prioritize time and resources to develop a Bering Sea Fishery Ecosystem Plan. The Council is interested in hearing from local residents and communities, as well as agencies, organizations and the general public, about the objectives and structure of the FEP, prior to decision-making. Interested stakeholders are encouraged to present their concerns and suggestions as the Council proceeds with this effort. The Council is seeking the following input from stakeholders: (1) What should be the objectives of the Bering Sea FEP? What questions should the FEP answer? (2) What kind of actions should be considered in the FEP? Should the FEP provide specific or general guidance for fishery management? (for example, strategies to respond to climate change, preserve subsistence fishing and hunting resources, maintain healthy populations of top level predators, etc.) (3) Would the FEP provide added value over existing Council documents, and if so, how? More information is posted at *http://www.npfmc.org/.*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 25, 2014.

William D. Chappell,

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

[FR Doc. 2014–20533 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD465

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Ecosystem Committee will meet in Seattle, WA.

DATES: The meeting will be held on September 16, 2014, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Alaska Fishery Science Center, 7600 Sand Point Way NE., Building 4, National Marine Mammal Laboratory conference room, Room 2039, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Committee will discuss the following issues: (1) Bering Sea Fishery Ecosystem Plan; (2) Ecosystem vision statement action plan; (3) EFH 5-year review; and (4) Updates.

The Agenda is subject to change, and the latest version is posted at *http://www.npfmc.org.*

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: August 26, 2014.

William D. Chappell,

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

[FR Doc. 2014–20600 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD471

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 (Council) is scheduling a public meeting of its Groundfish Recreational Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, September 16, 2014 at 8 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the DoubleTree by Hilton, 363 Maine Mall Road, South Portland, ME 04106; telephone: (207) 775–6161; fax: (207) 756–6622.

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: The items of discussion on the agenda are: Discussion of Amendment 18, A18, (fleet diversity and accumulation limits) in regards to draft inshore/offshore alternatives with respect to fleet diversity and Gulf of Maine (GOM) cod. The panel will also discuss the development of Advisory Panel (AP) recommendations. If time permits, also on the agenda is Framework Adjustment 53, (specifications and management measures) with regard to specifications for groundfish stocks (GOM cod and haddock; GOM and Georges Bank (GB) winter flounder; pollock; GB yellowtail flounder, cod and haddock). Additionally, Management Measures (expansion of the GOM cod inshore spawning closure, roll-over provision for specifications, and other measures) are on the agenda. The AP will also be developing AP Recommendations. The committee will discuss other business as necessary.

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

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, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 26, 2014.

William D. Chappell,

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

[FR Doc. 2014–20602 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD459

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) announces that the second meeting of its Marine Planning and Climate Change Committee will be held on September 15, 2014, at the Council office in Honolulu, HI.

DATES: The Marine Planning and Climate Change Committee meeting will be held on September 15, 2014, between 1 p.m. and 3 p.m.

ADDRESSES: The Marine Planning and Climate Change Committee meeting will be held at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The agenda is as follows:

Schedule and Agenda for the Marine Planning and Climate Change Committee Meeting: 1 p.m.–3 p.m. Monday, September 15, 2014

1. Approval of Draft Agenda
2. Draft Marine Planning and Climate Change Committee Statement of Organization Practices and Procedures
3. Draft Marine Planning and Climate Change Policy
4. Prioritization of Council Actions on Marine Planning and Climate Change
5. Public Comment
6. Committee Discussion and Recommendations

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: August 25, 2014.

William D. Chappell,

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

[FR Doc. 2014–20530 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD470

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 (Council) is scheduling a public meeting of its Groundfish Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, September 16, 2014 at 1:30 p.m.

ADDRESSES:

Meeting address: The meetings will be held at the DoubleTree by Hilton, 363 Maine Mall Road, South Portland, ME 04106; telephone: (207) 775–6161; fax: (207) 756–6622.

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: The items of discussion on the agenda are: Discussion of Amendment 18, A18, (fleet diversity and accumulation limits) in regards to draft inshore/offshore alternatives with respect to fleet diversity and Gulf of Maine (GOM) cod and discuss other measures in A18. Also, the development of Advisory Panel (AP) recommendations. If time permits, also on the agenda is Framework Adjustment 53, (specifications and management measures) with regard to specifications for groundfish stocks (GOM cod and haddock; GOM and Georges Bank (GB) winter flounder; pollock; GB yellowtail flounder, cod and haddock). Additionally, Management Measures (windowpane flounder sub-annual catch limit (ACLs) and accountability measures (AMs), expansion of the GOM cod inshore spawning closure, roll-over provision for specifications, and other measures) are on the agenda, time permitting. They will also be developing AP recommendations. The committee will discuss other business as necessary.

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

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, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 26, 2014.

William D. Chappell,

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

[FR Doc. 2014–20601 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD460

South Atlantic Fishery Management Council (SAFMC); Public Meetings

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

ACTION: Notice of public meetings of the South Atlantic Fishery Management Council.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of the: Scientific and Statistical Committee (SSC) Committee (CLOSED SESSION); Southeast Data, Assessment and Review (SEDAR) Committee; Advisory Panel Selection Committee; Highly Migratory Species (HMS) Committee; Protected Resources Committee; Golden Crab Committee; Information and Education Committee; Data Collection Committee; Executive Finance Committee; Snapper Grouper Committee; a joint committee meeting of the Dolphin Wahoo Committee and Snapper Grouper Committee; King & Spanish Mackerel Committee; Habitat Committee; Ecosystem-Based Management Committee; and a meeting of the Full Council. The Council will take action as necessary. The Council will also hold an informal public question and answer session regarding agenda items and a formal public comment session. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

DATES: The meetings will be held from 9 a.m. on Monday, September 15, 2014 until 3:15 p.m. on Friday, September 19, 2014.

ADDRESSES: The meetings will be held at the Charleston Marriott Hotel, 170 Lockwood Boulevard, Charleston, SC 29403; telephone: (800) 968–3569 or (843) 723–3000; fax: (843) 723–0276.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; telephone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion in the individual meeting agendas are as follows:

SSC Selection Committee, Monday, September 15, 2014, 9 a.m. Until 9:30 a.m. (Closed Session)

Review the SSC applications and develop recommendations for appointments/reappointments.

SEDAR Committee, Monday, September 15, 2014, 9:30 a.m. Until 10:30 a.m.

1. SEDAR activities update.
2. Provide guidance to SEDAR Steering Committee members.

Advisory Panel Selection Committee, Monday, September 15, 2014, 10:30 a.m. Until 12 Noon

Discuss the membership structure of the Snapper Grouper Advisory Panel and develop Committee recommendations.

Highly Migratory Species (HMS) Committee, Monday, September 15, 2014, 1:30 p.m. Until 3 p.m.

1. Receive a presentation on Amendment 9 to the 2006 Consolidated HMS Fishery Management Plan.
2. Discuss shark interactions with South Atlantic fisheries and provide guidance to staff.

Protected Resources Committee, Monday, September 15, 2014, 3 p.m. Until 4 p.m.

1. Receive a report on the Final Determination for Coral listing, and update on American Eel status review and an update on Atlantic Sturgeon Stock Status.
2. Discuss the future role and structure of the Committee and take other Committee actions as appropriate.

Golden Crab Committee, Monday, September 15, 2014, 4 p.m. Until 4:30 p.m.

1. Receive an update on the status of commercial catch versus annual catch limit (ACL) for golden crab.
2. Receive a report on public hearing comments and provide guidance to staff.
3. Review and discuss the Generic Accountability Measures and Dolphin Allocation Amendment and revise as appropriate.

Information and Education Committee, Monday, September 15, 2014, 4:30 p.m. Until 5 p.m.

Receive a report from the Information and Education Advisory Panel and a summary of the Council-hosted Science Communication Workshop.

Data Collection Committee, Tuesday, September 16, 2014, 8:30 a.m. Until 11 a.m.

1. Receive an update on the status of the Joint Gulf and South Atlantic Council Generic Dealer Amendment.

2. Review background and receive an update on the status of implementation of the Electronic Technology (Data Collection and Monitoring) Implementation Plan; take Committee action as appropriate.

3. Receive a presentation on the status of work in the Northeast related to bycatch reporting and take Committee action as appropriate.

4. Receive an update on the status of an implementation plan for commercial logbook electronic reporting, provide staff guidance on options, receive a demonstration of the system developed by the Atlantic Coast Cooperative Statistics Program, and receive an update on the status of the Logbook Pilot Program from NOAA Fisheries.

5. Review the Joint South Atlantic and Gulf Council Generic Charterboat Reporting Amendment, receive an overview of the Gulf Council's actions, status, and next steps, a report on the Technical Committee meeting, and take action as appropriate.

Executive Finance Committee, Tuesday, September 16, 2014, 11 a.m. Until 12 noon

1. Receive updates on the status of the Calendar Year 2014 budget expenditures.

2. Address the Council Follow-up and priorities.

3. Receive an update on the Joint South Florida Committee.

4. Receive an overview of proposed Magnuson-Stevens Fishery Conservation and Management Act bills and address other issues as appropriate.

Snapper Grouper Committee, Tuesday, September 16, 2014, 1:30 p.m. Until 5:30 p.m. and Wednesday, September 17, 2014, 8:30 a.m. Until 5:00 p.m.

1. Receive and discuss the status of commercial and recreational catches versus quotas for species under Annual Catch Limits (ACLs) with an update on the 2014 Red Snapper Season. The committee will take action as appropriate.

2. Receive an update on the status of Snapper Grouper amendments under formal Secretarial review.

3. Receive an update on the 2014 golden tilefish commercial longline landings and overages.

4. Discuss preparation and provide staff guidance for the October 2014 Council Visioning Workshop.

5. Review Snapper Grouper Regulatory Amendment 16 relative to removal of the current black sea bass pot seasonal closure, modify the document as appropriate, and provide guidance to staff.

6. Receive an update on Snapper Grouper Amendment 22 addressing the use of tags to track recreational harvest, discuss and provide guidance to staff.

7. Receive an overview of changes to Snapper Grouper Amendment 29 addressing Only Reliable Catch Stocks (ORCS) and management measures for gray triggerfish; modify the amendment as appropriate and make recommendations to approve the amendment for formal Secretarial review.

8. Review public hearing comments for Snapper Grouper Amendment 32 addressing blueline tilefish; modify the amendment as appropriate and provide recommendation to approve for formal Secretarial review.

9. Request an extension of the Emergency Rule for blueline tilefish.

10. Review Snapper Grouper Regulatory Amendment 20 addressing snowy grouper; modify the document as appropriate, and provide recommendation to approve for formal Secretarial review.

11. Receive an overview of public scoping comments received for Snapper Grouper Regulatory Amendment 22 addressing measures for gag and wreckfish, modify the amendment, provide guidance to staff, and recommend approval for public hearings.

12. Review the Snapper Grouper Amendment 36 scoping comments addressing the use of Special Management Zones for protection of spawning areas/aggregations, modify the amendment as appropriate and provide guidance to staff.

13. Review the Snapper Grouper Amendment 35 scoping comments addressing the removal of four species from the Snapper Grouper Management Complex, modify the amendment as appropriate, and provide guidance to staff.

14. Discuss options for the commercial golden tilefish longline endorsement issue and provide guidance to staff.

Note: There will be an informal public question and answer session with the NMFS Regional Administrator and the Council Chairman on Wednesday, September 17, 2014, beginning at 5:30 p.m.

Joint Dolphin Wahoo Committee and Snapper Grouper Committees, Thursday, September 18, 2014, 8:30 a.m. Until 10 a.m.

1. Receive and discuss the status of commercial and recreational catches versus ACLs for dolphin and wahoo.

2. Receive a presentation on Operator Permits from NOAA Fisheries.

3. Review public hearing comments for Dolphin Wahoo Amendment 7 and Snapper Grouper Amendment 33 regarding the issue of transport of fillets from Bahamian waters into United States waters, modify the amendments as appropriate and provide recommendations for approval for formal Secretarial review.

4. Review and discuss the Generic Accountability Measures and Dolphin Allocation Amendment, modify as appropriate, and provide guidance to staff.

King and Spanish Mackerel Committee, Thursday, September 18, 2014, 10 a.m. Until 12 Noon

1. Receive an update on the status of commercial and recreational catches versus ACLs for Atlantic Group king mackerel, Spanish mackerel, and cobia.

2. Receive an update on the status of amendments under Formal Review.

3. Review the public hearing comments received for Coastal Migratory Pelagics (CMP) Framework Amendment 2 addressing Spanish Mackerel trip limits, modify the document as appropriate, and provide recommendations for approval for formal Secretarial review.

4. Receive an overview of a white paper on CMP Amendment 26 addressing separating permits for king mackerel and Spanish mackerel into separate jurisdictions and provide directions to staff.

Habitat Committee, Thursday, September 18, 2014, 1:30 p.m. Until 2:30 p.m.

1. Receive an update on the status of Coral Amendment 8, the Coral grant, the Council's Habitat Policy statements, and take action as appropriate.

Ecosystem-Based Management Committee, Thursday, September 18, 2014, 2:30 p.m. Until 3:30 p.m.

1. Receive an update on the status of work on the Fishery Ecosystem Plan, a presentation on potential projects/collaborations, an update on Ecosystem-Based management activities, and take Committee action as appropriate.

Note: A formal public comment session will be held on Thursday, September 18, 2014, beginning at 4:00 p.m. Public comment will be accepted on the following: Snapper Grouper Amendment 29 (ORCS and gray triggerfish); Snapper Grouper Amendment 32 (blueline tilefish); Snapper Grouper Regulatory Amendment 20 (snowy grouper); Dolphin Wahoo Amendment 7/Snapper Grouper Amendment 33 (fillets from The Bahamas); and Coastal Migratory Pelagics Framework Amendment 2 (Spanish mackerel). Following comment on these amendments, public comment will be accepted regarding any other items on the Council agenda. The amount of time

provided to individuals will be determined by the Chairman based on the number of individuals wishing to comment.

Council Session: Friday, September 19, 2014, 8:30 a.m. Until 3:15 p.m.

8:30 a.m.–8:45 a.m.: Call the meeting to order, adopt the agenda, approve the June 2014 minutes, and make presentations.

8:45 a.m.–9:15 a.m.: The Council will receive a report from the Snapper Grouper Committee and is scheduled to either approve or disapprove the following for amendments to the Snapper Grouper Fishery Management Plan for formal Secretarial review: Amendment 29, Amendment 32, and Regulatory Amendment 20. The Council will also consider approving or disapproving Regulatory Amendment 22 for public hearings, consider other Committee recommendations and take action as appropriate.

9:15–9:30 a.m.: The Council will receive a report from the Joint Dolphin Wahoo and Snapper Grouper Committees and approve or disapprove Dolphin Wahoo Amendment 7 and Snapper Grouper Amendment 33 (fillets from The Bahamas) for formal Secretarial review. The Council will consider other Committee recommendations and take action as appropriate.

9:30 a.m.–9:45 a.m.: The Council will receive a report from the King and Spanish Mackerel Committee and is scheduled to approve or disapprove Coastal Migratory Pelagics Framework Amendment 2 for formal submission to the Secretary. The Council will consider Committee recommendations and take action as appropriate.

9:45 a.m.–10 a.m.: The Council will receive a report from the Habitat Committee, consider recommendations and take action as appropriate.

10 a.m.–10:15 a.m.: The Council will receive a report from the Ecosystem-Based Management Committee, consider committee recommendations and take action as appropriate.

10:15 a.m.–10:30 a.m.: The Council will receive a report from the Protected Resources Committee, consider committee recommendations and take action as appropriate.

10:30 a.m.–10:45 a.m.: The Council will receive a report from the SEDAR Committee, consider Committee recommendations and will take action as appropriate.

10:45 a.m.–11 a.m.: The Council will receive a report from the Advisory Panel Selection Committee, consider Committee recommendations, and take action as appropriate.

11 a.m.–11:15 a.m.: The Council will receive a report from the Executive Finance Committee, approve the Council Follow Up and Priorities, take action on the South Florida Management issues as appropriate, and consider Committee recommendations and take action as appropriate.

11:15 a.m.–11:30 a.m.: The Council will receive a report from its Data Collection Committee, consider recommendations and take action as appropriate.

11:30 a.m.–11:45 a.m.: The Council will receive a report from the SSC Selection Committee, consider Committee recommendations and appoint and/or reappoint members to its SSC. The Council will consider other recommendations and take action as appropriate.

11:45 a.m.–12 noon: The Council will receive a report from the HMS Committee, consider Committee recommendations and take action as appropriate.

1:30 p.m.–1:45 p.m.: The Council will receive a report from the Golden Crab Committee, consider Committee recommendations and take action as appropriate.

1:45 p.m.–2 p.m.: The Council will receive a report from the Information and Education Committee, consider Committee recommendations, and take action as appropriate.

2 p.m.–3:15 p.m.: The Council will receive status reports from NOAA Fisheries SERO and the Southeast Fisheries Science Center. The Council will review and develop recommendations on Experimental Fishing Permits as necessary; review agency and liaison reports; and discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: August 25, 2014.

William D. Chappell,

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

[FR Doc. 2014–20531 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD127

Marine Mammals; File No. 18002

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Alejandro Acevedo-Gutiérrez, Ph.D. of Western Washington University's Department of Biology, 516 High Street, Bellingham, WA 98225, to conduct research on harbor seals (*Phoca vitulina*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the 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.

FOR FURTHER INFORMATION CONTACT: Courtney Smith or Amy Sloan, (301)427–8401.

SUPPLEMENTARY INFORMATION: On February 14, 2014 notice was published in the **Federal Register** (79 FR 8941) that a request for a permit to conduct research on the species identified above had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 18002 authorizes non-invasive research techniques including scat collection and a small unmanned aerial system (sUAS) to determine the level of individual diet specializations (prey consumption) amongst harbor seals within the Salish Sea area of Washington State. Annually, researchers may take (incidentally harass) 57,600

harbor seals during ground surveys for scat collection and 12,800 harbor seals during aerial (sUAS) surveys for counts of seals at haul-out sites. Additionally, the permit authorizes the unintentional mortality of 4 individuals during ground surveys over the life of the permit.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: August 26, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–20582 Filed 8–28–14; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete a product and a service previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments Must Be Received on or Before:* 9/29/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

For Further Information or to Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product and service are proposed for deletion from the Procurement List:

Product

NSN: 5340–00–410–2296—Cover, Fire Extinguisher.
NPA: Huntsville Rehabilitation Foundation, Huntsville, AL.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.

Service

Service Type/Location: Catering Service, Military Entrance Processing Station, Leo O'Brien Federal Building, Suite 810, Albany, NY,
NPA: Albany County Chapter, NYSARC, Inc., Slingerlands, NY.
Contracting Activity: Dept of the Army, W6QM MICC Ctr-Ft Knox, Ft Knox, KY.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–20574 Filed 8–28–14; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* September 29, 2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Addition

On 5/16/2014 (79 FR 28490–28491), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of a qualified nonprofit agency to provide the service and impact of the addition on the current or most recent contractors the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will provide the service to the Government.

2. The action will result in authorizing small entity to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service

Service Type/Locations: Laundry and Linen Service, VA Tennessee Valley Healthcare System, Nashville Campus, 1310 24th Avenue South, Nashville, TN.
VA Tennessee Valley Healthcare System, Murfreesboro Campus, 3400 Lebanon Pike, Murfreesboro, TN.
NPA: Wiregrass Rehabilitation Center, Inc., Dothan, AL
Contracting Activity: Department of Veterans Affairs, 249-Network Contract Office 9, Murfreesboro, TN

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2014–20573 Filed 8–28–14; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

[Docket ID: DoD–2014–OS–0132]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed renewal of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to

enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) Military Personnel Policy/Armed Forces Chaplains Board, ATTN: Brian A. Hodge, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 697–9911.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Control Number: Statement of Ecclesiastical Endorsement; DD Form 2088; OMB Control Number: 0704–0190.

Needs and Uses: This information collection is necessary to provide certification that a Religious Ministry Professional is professionally qualified to become a chaplain.

Affected Public: Not-for-profit institutions.

Annual Burden Hours: 118 hours.

Number Of Respondents: 157.

Responses Per Respondent: 1.

Average Burden Per Response: 45 minutes.

Frequency: On Occasion; Annually.

The DD Form 2088 is used to verify the professional and ecclesiastical qualifications of Religious Ministry Professionals for initial appointment or chaplains change of career status appointments as chaplains in the Military Service. This form is an essential element of a chaplain's professional qualifications and will become a part of a chaplain's military personnel record. DoD listed endorsing agents utilize the form to endorse military chaplains representing their organizations.

Dated: August 26, 2014.

Aaron Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

[FR Doc. 2014–20630 Filed 8–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

National Security Education Board; Notice of Federal Advisory Committee Meeting

AGENCY: The Office of the Under Secretary of Defense for Personnel and Readiness, Defense Language and National Security Education Office (DLNSEO), DoD.

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal advisory committee meeting of the National Security Education Board will take place. This meeting is open to the public.

DATES: Monday, September 22, 2014, from 9:30 a.m. to 4:15 p.m.

ADDRESSES: Renaissance Dupont Circle Hotel, 415 New Hampshire Avenue NW, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Alison Patz, telephone (703) 696–1991, *Alison.m.patz.civ@mail.mil,* fax (703) 696–5667.

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

Purpose of the Meeting: The purpose of the meeting is to review and make recommendations to the Secretary of Defense concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102–183, as amended.

Agenda

9:30 a.m.—Ethics Briefing.

10:00 a.m.—Opening Remarks and Key Updates.

10:45 a.m.—NSEP and Public Service.

12:00 p.m.—Break.

1:30 p.m.—Boren Forum Briefing.

2:30 p.m.—Transforming Language Education through NSEP's The Language Flagship.

3:45 p.m.—Board Discussion.

4:15 p.m.—Adjourn.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

Committee's Point of Contact: Alison Patz, Alternate Designated Federal Official, (703) 696–1991, *Alison.m.patz.civ@mail.mil.*

Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Department of Defense National Security Education Board about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of the planned meeting. All written statements shall be submitted to the Designated Federal Official for the National Security Education Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Official can be obtained from the GSA's FACA Database—*http://facadatabase.gov/.*

Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Official at the address listed in **FOR FURTHER INFORMATION CONTACT** at least five calendar days prior to the meeting that is the subject of this notice. Written statements received after this date may not be provided to or considered by the National Security Education Board until its next meeting.

The Designated Federal Official will review all timely submissions with the National Security Education Board and ensure they are provided to all members of the National Security Education Board before the meeting that is the subject of this notice.

Dated: August 25, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–20543 Filed 8–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2014–0019]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by September 29, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Application for Establishment of Air Force Junior ROTC Unit; AFJROTC Forms 59, 102, and 200; OMB Control Number 0701–0114.

Type of Request: Extension,

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 100.

Needs And Uses: Respondents are high school officials who provide information about their school. The completed application is used to determine the eligibility of the school to host an Air Force JROTC (AFJROTC) unit. Failure to submit the application renders the school ineligible for consideration to host an AFJROTC unit. Require the collection of specific information on prospective AFJROTC instructors.

Affected Public: Not-For-Profit Institutions; Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: August 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–20572 Filed 8–28–14; 8:45 am]

BILLING CODE 5001–05–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

BeyondVista Corp. (NVO), 3551 Voyager Street, Suite D, Torrance, CA 90503, Officers: Cathy H. Ling, Secretary (QI), Brian Lai, President, Application Type: New NVO License.

Korchina Logistics USA, Inc. (NVO & OFF), 6131 Orangethorpe Avenue, Suite 430, Buena Park, CA 90620, Officers: Jin Kim, Secretary (QI), Eric E. Sun, CEO, Application Type: QI Change.

Integrated Global Logistics LLC (NVO & OFF), 1 Pennval Road, Woodbridge, NJ 07095, Officers: Anthony Graffia, Member/Manager (QI), Frank Perez, Member/Manager, Application Type: New NVO & OFF License.

International Movers LLC (NVO & OFF), 240 Boundary Road, Marlboro, NJ 07746, Officers: Michael Dragin, Manager/Operating Manager (QI), Mario Lalima, Member/Operating Manager, Application Type: New NVO & OFF License.

Maltacourt Global Logistics LLC (NVO & OFF), 2501 Santa Fe Avenue, Redondo Beach, CA 90278, Officer: Mario Bravo, Operating Manager (QI), Application Type: New NVO & OFF License.

Miami Ocean Logistics, Inc (NVO & OFF), 11003 NW 33rd Street, Doral, FL 33172, Officers: Mary J. Bruno, Secretary (QI), Danny Carchi, President, Application Type: New NVO & OFF License.

SFL Worldwide LLC (NVO), 14818 Venture Drive, Farmers Branch, TX 75234, Officer: Purveen Shah, Member (QI), Application Type: New NVO License.

STS Logistics USA, Inc. (NVO & OFF), 1750 112th Avenue NE., Suite C226, Bellevue, WA 98004, Officers: Nickolay A. Nickolaychuk, President (QI), Rustam Yuldashev, Director, Application Type: Name Change to Amrus Logistics, Inc.

Wiz Logis USA, Inc. (NVO & OFF), 17315 Studebaker Road, Suite 300E, Cerritos, CA 90703, Officers: Jong (A.K.A. Jake) K. Park, Secretary (QI), Jae Y. Yoo, President, Application Type: New NVO & OFF License.

By the Commission.

Dated: August 15, 2014.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–20614 Filed 8–28–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov.*

Bergen Logistics, LLC (OFF),455 Hillsdale Avenue, Hillsdale, NJ 07642, Officers: Carl R. Varner, Managing Vice President (QI), John D. Fornazor, President, Application Type: QI Change

Cargo Partner Network, Inc. (NVO & OFF), One Cross Island Plaza, Suite 203, Rosedale, NY 11422, Officers: Brian Best, Vice President (QI), Marko Meze, President, Application Type: QI Change

Continental Services & Carrier Inc. (NVO & OFF), 6045 NW 87 Avenue, Miami, FL 33178, Officers: Rodolfo Luciani, Vice President (QI), Mirtha Lopez Luciani, President, Application Type: Add Trade Names Project Freight and Link Logistics

Dalko Resources, Inc. (NVO & OFF), 99 Canal Street, Sharpsville, PA 16150, Officers: William E. Welch III, President of Sales (QI), Leonard O. Grandy, CEO, Application Type: New NVO & OFF License

FML Logistics, Inc. (NVO & OFF), 758 S. Glasgow Avenue, Inglewood, CA 90301, Officers: Lang-Yun Chen, Vice President Ocean Services (QI), Desmond C. Chandiram, President, Application Type: New NVO & OFF License

Golden Wings International Trade & Logistics, Inc. (OFF), 16401 Golf Club Road, Suite 206, Weston, FL 33326, Officers: Sascha Ibarra, President (QI), Elizabeth Rodriguez, Secretary, Application Type: New OFF License

Goodrich Americas, Inc. (NVO & OFF), 45 Knightsbridge Road, Suite 106, Piscataway, NJ 08854, Officers: Rajkumar Walanj, Secretary (QI), Venkataraman Thyagarajan, President, Application Type: New NVO & OFF License

Infiniti Logistics, Inc. (NVO & OFF), 4701 College Boulevard, Suite 104, Leawood, KS 66211, Officer:, Dave Gibbons, President (QI), Application Type: New NVO & OFF License

Lavinstar Logistics, Inc. (NVO & OFF), 485–C Route 1 South Building C, Suite 310, Iselin, NJ 08830, Officers: Martin J. Aranha, President (QI), Simon J. Rego, Vice President, Application Type: Name Change to Lavinstar America, Inc.

Lotus Trading Corp (NVO & OFF), 408 NE. 6th Street, Unit 228, Fort Lauderdale, FL 33304, Officers: Juliet Castillo, Treasurer (QI), Aura C. Vides, President, Application Type: New NVO & OFF License

Mainfreight, Inc. dba Mainline (NVO & OFF), 1400 Glenn Curtiss Street, Carson, CA 90746, Officers: Jason Braid, Vice President, Air and Ocean (QI), John Hepworth, President, Application Type: QI Change

MV Logistics, Inc. (NVO & OFF), 20 Mingarry Drive, Richmond Hill, GA 31324, Officers: Bruce F. McCray, President (QI), Peggy L. Schmidt, Secretary, Application Type: New NVO & OFF License

NewPort Tank Containers, Inc. (NVO), 1340 Depot Street, Suite 200, Cleveland, OH 44116, Officers: Frederick M. Hunger, Chairman (QI), Michael DeRijk, President, Application Type: Name Change to NewPort Tank Containers (USA) LLC

Ocean View Logistics Limited Liability Company (NVO & OFF), 354 Whiton Street, Jersey City, NJ 07304, Officers: Isabel Heasty, Member/Manager (QI), Jose R. Nunez, Member/Manager, Application Type: New NVO & OFF License

Plex International Logistics, L.L.C. (NVO), 1850 NW. 84th Avenue, Suite 116, Doral, FL 33126, Officers: Luciano Zucki, Member/Manager (QI), Paulo Gait, Member/Manager, Application Type: New NVO License

Right Link Freight Forwarding Corp. (NVO & OFF), 1600 NW 84th Avenue, Doral, FL 33126, Officers: Sonia Rullier, Secretary (QI), Hilario M. Prieto Herrera, President, Application Type: New NVO & OFF License

Seibu Transportation Co., Ltd. (NVO & OFF), 5343 W. Imperial Highway, Suite 900, Los Angeles, CA 90045, Officers: Akihiro Otaka, Vice President (QI), Shigenori Matsubara, President, Application Type: Name Change to Seino Super Express Co., Ltd.

Specialty Cargo, Inc. (NVO & OFF), 2580 S. 156th Street, Bldg. A, Room 210, Seattle, WA 98158, Officers: Brian A. Swett, Treasurer (QI), Linda M. Swett, Secretary, Application Type: New NVO & OFF License

Supply Chain Shipping LLC (NVO & OFF), 4607 44th Street SE, Grand Rapids, MI 49512, Officers: James W. Ward, COO (QI), Leslie Brand, CEO, Application Type: QI Change

Tradewinds International, LLC (NVO), 455 Hillsdale Avenue, Hillsdale, NJ 07642, Officers: Carl R. Varner, Managing Vice President (QI), John D. Fornazor, President, Application Type: QI Change

Transoceanic Development, L.L.C. (OFF), 1615 Poydras Street, Suite 1255, New Orleans, LA 70112, Officers: Gregory R. Rusovich, Manager (QI), Colin G. Rusovich, Director, Application Type: New OFF License

Transportation Services International Inc. (NVO & OFF), 1600 Lower Road, Linden, NJ 07036, Officers: Richard Harty, President (QI), Tabytha Hexx, Secretary, Application Type: NVO & OFF License

Trenmar International Shipping, Inc. (OFF), 7 Carrington Crescent, Manorville, NY 11949–2957, Officers: Roy A. Trendel, President (QI), Erich H. Trendel, Secretary, Application Type: QI Change

By the Commission.

Dated: August 25, 2014.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–20615 Filed 8–28–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary license has been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 023672F.

Name: Straight Line Logistics, LLC.

Address: 2250 NW 96th Avenue, Suite 209, Doral, FL 33172.

Date Reissued: August 7, 2014.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–20569 Filed 8–28–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Rescission of Order of Revocation

The Commission gives notice that the Order revoking the following Ocean Transportation Intermediary license has been rescinded pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License Number: 022306N.

Name: Worldunimax Logistics, Inc.

Address: 250 West Walnut Street, Compton, CA 90220.

Order Published: August 15, 2014 (79 FR 48158 DOC No. 2014–19349).

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–20568 Filed 8–28–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Terminations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked or terminated for the reason indicated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 004264F.
Name: Trans Freight Services, Inc.
Address: 420 Doughty Blvd., 2nd Floor, Inwood, NY 11096.
Date Revoked: August 8, 2014.
Reason: Failed to maintain a valid bond.

License No.: 017342N.
Name: Trans Circle Inc.
Address: 1927 West 139th Street, Gardena, CA 90249.
Date Revoked: August 13, 2014.
Reason: Failed to maintain a valid bond.

License No.: 022610NF.
Name: Ascend Logistics, LLC.
Address: 75 Windsor Pond Road, West Windsor, NJ 08550.
Date Surrendered: August 6, 2014.
Reason: Voluntary surrender of license.

License No.: 023371N.
Name: PME Logistics Inc.
Address: 19401 S. Main Street, Suite 102, Gardena, CA 90248.
Date Revoked: August 10, 2014.
Reason: Failed to maintain a valid bond.

License No.: 024464N.
Name: Seahorse Forwarding Ltd.
Address: One Euclid Road, Fort Lee, NJ 07024.
Date Surrendered: August 11, 2014.
Reason: Voluntary surrender of license.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 2014–20570 Filed 8–28–14; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Diabetes Mellitus Interagency Coordinating Committee Meeting

SUMMARY: The Diabetes Mellitus Interagency Coordinating Committee (DMICC) will hold a meeting on September 29, 2014. The topic for this meeting will be ''Implementing the Department of Health and Human Services National Action Plan for Hypoglycemic Safety.'' The meeting is open to the public.

DATES: The meeting will be held on September 29, 2014 from 8:15 a.m. to 4:00 p.m. Individuals wanting to present oral comments must notify the contact person at least 10 days before the meeting date.

ADDRESSES: The meeting will be held in Building 31 Conference Room 6C6, on the NIH Campus in Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: For further information concerning this meeting, see the DMICC Web site, *www.diabetescommittee.gov,* or contact Dr. B. Tibor Roberts, Executive Secretary of the Diabetes Mellitus Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 31 Center Drive, Building 31A, Room 9A19, MSC 2560, Bethesda, MD 20892–2560, telephone: 301–496–6623; FAX: 301–480–6741; email: *dmicc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The DMICC, chaired by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) comprising members of the Department of Health and Human Services and other federal agencies that support diabetes-related activities, facilitates cooperation, communication, and collaboration on diabetes among government entities. DMICC meetings, held several times a year, provide an opportunity for Committee members to learn about and discuss current and future diabetes programs in DMICC member organizations and to identify opportunities for collaboration. The September 29, 2014 DMICC meeting will focus on ''Implementing the Department of Health and Human Services National Action Plan for Hypoglycemic Safety.''

Any member of the public interested in presenting oral comments to the Committee should notify the contact person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives or organizations should submit a letter of intent, a brief description of the organization represented, and a written copy of their oral presentation in advance of the meeting. Only one representative of an organization will be allowed to present; oral comments and presentations will be limited to a maximum of 5 minutes. Printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the Committee by forwarding their statement to the contact person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Because of time constraints for the meeting, oral comments will be allowed on a first-come, first-serve basis.

Members of the public who would like to receive email notification about future DMICC meetings should register for the listserv available on the DMICC Web site, *www.diabetescommittee.gov.*

Date: August 22, 2014.

B. Tibor Roberts,
Executive Secretary, DMICC, Office of Scientific Program and Policy Analysis, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 2014–20620 Filed 8–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed changes to the currently approved information collection project: ''Medical Expenditure Panel Survey (MEPS) Household Component'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by October 28, 2014.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer). Copies of the proposed changes to questions asked of household respondents, data collection instruments, collection plans, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports

Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitzAHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Medical Expenditure Panel Survey (MEPS) Household Component

For over thirty years, results from the MEPS and its predecessor surveys (the 1977 National Medical Care Expenditure Survey, the 1980 National Medical Care Utilization and Expenditure Survey and the 1987 National Medical Expenditure Survey) have been used by OMB, DHHS, Congress and a wide number of health services researchers to analyze health care use, expenses and health policy.

Major changes continue to take place in the health care delivery system. The MEPS is needed to provide information about the current state of the health care system as well as to track changes over time. The MEPS permits annual estimates of use of health care and expenditures and sources of payment for that health care. It also permits tracking individual change in employment, income, health insurance and health status over two years. The use of the National Health Interview Survey (NHIS) as a sampling frame expands the MEPS analytic capacity by providing another data point for comparisons over time.

Households selected for participation in the MEPS–HC are interviewed five times in person. These rounds of interviewing are spaced about 5 months apart. The interview will take place with a family respondent who will report for him/herself and for other family members.

The MEPS–HC has the following goal:

• To provide nationally representative estimates for the U.S. civilian noninstitutionalized population for health care use, expenditures, sources of payment and health insurance coverage.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the cost and use of health care services and with respect to health statistics and surveys. 42 U.S.C. 299a(a)(3) and (8); 42 U.S.C. 299b–2.

Method of Collection

To achieve the goals of the MEPS–HC the following data collections are implemented:

I. Household Component Core Instrument. The core instrument collects data about persons in sample households. Topical areas asked in each round of interviewing include condition enumeration, health status, health care utilization including prescribed medicines, expense and payment, employment, and health insurance. Other topical areas that are asked only once a year include access to care, income, assets, satisfaction with health plans and providers, children's health, and adult preventive care. While many of the questions are asked about the entire reporting unit (RU), which is typically a family, only one person normally provides this information.

2. Adult Self Administered Questionnaire. A brief self-administered questionnaire (SAQ) will be used to collect self-reported (rather than through household proxy) information on health status, health opinions and satisfaction with health care for adults 18 and older. The satisfaction with health care items are a subset of items from the Consumer Assessment of Healthcare Providers and Systems (CAHPS). The health status items are from the Short Form 12 Version 2 (SF–12 version 2), which has been widely used as a measure of self-reported health status in the United States, the Kessler Index (K6) of non-specific psychological distress, and the Patient Health Questionnaire (PHQ–2).

3. Diabetes Care SAQ. A brief self administered paper-and-pencil questionnaire on the quality of diabetes care is administered once a year (during rounds 3 and 5) to persons identified-as having diabetes. Included are questions about the number of times the respondent reported having a hemoglobin A1c blood test, whether the respondent reported having his or her feet checked for sores or irritations, whether the respondent reported having an eye exam in which the pupils were dilated, the last time the respondent had his or her blood cholesterol checked and whether the diabetes has caused kidney or eye problems. Respondents are also asked if their diabetes is being treated with diet, oral medications or insulin.

4. Permission forms for the MEPS–MPC Provider and Pharmacy Survey. As in previous panels of the MEPS, we will ask respondents for permission to obtain supplemental information from their medical providers (hospitals, physicians, home health agencies and institutions) and pharmacies.

The MEPS–HC was last approved by OMB on December 20th, 2012 and will expire on December 31st, 2015. The OMB control number for the MEPS–HC is 0935–0118. All of the supporting documents for the current MEPS–HC can be downloaded from OMB's Web site at. *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201209-0935-001*

The MEPS is a multi-purpose survey. In addition to collecting data to yield annual estimates for a variety of measures related to health care use and expenditures, the MEPS also provides estimates of measures related to health status, consumer assessment of health care, health insurance coverage, demographic characteristics, employment and access to health care indicators. Estimates can be provided for individuals, families and population subgroups of interest. Data from the MEPS–HC are intended for a number of annual reports required to be produced by the Agency, including the National Health Care Quality Report and the National Health Care Disparities Report.

AHRQ proposes to make the following changes to questions asked of respondents:

Additions:

Closing—questions pertaining to respondent email;

Reenumeration—addition of questions pertaining to educational level attainment and the determination of institutional status;

Provider Probes—determination if healthcare was received in an overnight facility; and

Health Insurance—questions were added regarding interaction with the health insurance marketplace, enrollment through state health insurance exchanges, the extent of subsidized health insurance, monthly premiums, health insurance metal plan names, and medical debt.

Preventive Care—a field test will be conducted to assess response loss through self-administration.

Deletions:

Questions were removed from the following sections: Access to Care; Closing; Medical Conditions; Charge Payment; Child Preventive Health; Disability Days; Employment, Health Status; Health Insurance; and Income.

Questions were removed to reduce burden and redundancy, additional questions were removed due to difficulty in respondent interpretation, low frequency in response or minimal variation, and limited ability of respondent to respond accurately.

Estimated Annual Respondent Burden

There are no changes to the current burden estimates.

Estimated Annual Costs to the Federal Government There are no changes-to the current cost estimates.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's

information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 20, 2014.

Richard Kronick,

Director.

[FR Doc. 2014–20423 Filed 8–28–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment From Patient Safety Services, LLC

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of Delisting.

SUMMARY: The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to b–26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR Part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, 73 FR 70732–70814, provide for the formation of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of health care delivery. The Patient Safety Rule authorizes AHRQ, on behalf of the Secretary of NHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ has accepted a notification of voluntary relinquishment from Patient Safety Services, LLC of its status as a PSO, and has delisted the PSO accordingly.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12:00 Midnight ET (2400) on July 30, 2014.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.AHRQ.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@AHRQ.hhs.qov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when the PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from Patient Safety Services, LLC, PSO number P0129, to voluntarily relinquish its status as a PSO. Accordingly, Patient Safety Services, LLC was delisted effective at 12:00 Midnight ET (2400) on July 30, 2014.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.AHRQ.gov/index.html.*

Dated: August 20, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–20424 Filed 8–28–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Health Information Exchange

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Scientific Information Submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review of Health Information Exchange, which is currently being conducted by the Evidence-based Practice Centers for the AHRQ Effective Health Care Program. Access to published and unpublished pertinent scientific information will improve the quality of this review. AHRQ is conducting this systematic review pursuant to Section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108–173, and Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

DATES: Submission Deadline on or before September 29, 2014.

ADDRESSES: Online submissions: *http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/.* Please select the study for which you are submitting information from the list to upload your documents. Email submissions: *SIPS@epc-src.org.*

Print Submissions

Mailing Address: Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, P.O. Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Ryan McKenna, Telephone: 503–220–8262 ext. 58653 or Email: *SIPS@epc-src.org.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Effective Health Care (EHC) Program Evidence-based Practice Centers to complete a review of the evidence for Health Information Exchange.

The EHC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (e.g., details of studies conducted). We are looking for studies that report on Health Information Exchange, including those that describe adverse events. The entire research protocol, including the key questions, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1943.*

This notice is to notify the public that the EHC Program would find the following information on Health Information Exchange helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.
- For completed studies that do not have results on ClinicalTrials.gov, please provide a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- A list of ongoing studies that your organization has sponsored for this indication. In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute ALL Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EHC Program. The contents of all submissions will be made available to the public upon request. Materials submitted must be publicly available or can be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EHC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EHC Program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/ioin-the-email-list1/.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions. The entire research protocol, is also available online at: *http://effectivehealthcare.AHRQ.gov/search-for-guides-reviews-and-reports/?pageaction=displayproduct&productID=1943.*

The Key Questions

The draft Key Questions (KQs) developed during Topic Refinement were available for public comment from February 6 to February 26, 2014. The comments did not lead to significant changes but were helpful in identifying additional factors of interest in KQ 4 and KQ 5, and for clarifying the wording of the questions.

Based on the public comments and subsequent discussions with AHRQ, the following changes of note were made to the KQs:

- KQ 4: Added ''provider type'' to KQ 4b. Added an additional sub question of ''Do level of use and primary uses vary by data source?''
- KQ 5: Added an additional sub question of ''How does usability vary by health care settings or systems?''

The revised KQs are as follows:

KQ 1: Is health information exchange (HIE) effective in improving clinical (e.g. mortality and morbidity), economic (e.g., costs and resource use, the value proposition for HIE) and population (e.g., syndromic surveillance) outcomes?

- Does effectiveness vary by type of HIE?
- Does effectiveness vary by health care settings and systems?
- Does effectiveness vary by IT system characteristics?
- What evidence exists that the lack of HIE leads to poorer outcomes?

KQ 2: What harms have resulted from HIE? (e.g., violations of privacy, errors in diagnosis or treatment from too much, too little or inaccurate information, or patient or provider concerns about HIE)?

- Do harms vary by type of HIE?
- Do harms vary by health care settings and systems?
- Do harms vary by the IT system characteristics?

KQ 3: Is HIE effective in improving intermediate outcomes such as patient and provider experience, perceptions or behavior; health care processes; or the availability, completeness, or accuracy of information?

- Does effectiveness in improving intermediate outcomes vary by type of HIE?
- Does effectiveness in improving intermediate outcomes vary by health care settings and systems?
- Does effectiveness in improving intermediate outcomes vary by IT system characteristics?
- What evidence exists that the lack of HIE leads to poorer intermediate outcomes?

KQ 4: What is the current level of use and primary uses of HIE?

- Do level of use and primary uses vary by type of HIE?
- Do level of use and primary uses vary by health care settings and systems, or provider type?
- Do level of use and primary uses vary by IT system characteristics?
- Do level of use and primary uses vary by data source?

KQ 5: How does the usability of HIE impact effectiveness or harms for individuals and organizations?

- How usable are various types of HIE?
- What specific usability factors impact the effectiveness or harms from HIE?
- How does usability vary by health care settings or systems?

KQ 6: What facilitators and barriers impact implementation of HIE?

- Do facilitators and barriers that impact implementation vary by type of HIE?
- Do facilitators and barriers that impact implementation vary by health care settings and systems?
- Do facilitators and barriers that impact implementation vary by IT system characteristics?

KQ 7: What facilitators and barriers impact use of HIE?

- Do facilitators and barriers that impact use vary by type of HIE?

• Do facilitators and barriers that impact use vary by health care settings and systems?
• Do facilitators and barriers that impact use vary by IT system characteristics?

KQ 8: What factors influence sustainability of HIE?

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, Setting)

Populations

Any individual or group of health care providers, patients, managers, health care institutions, or regional organizations.

Intervention

Heath Information Exchange (HIE). HIE is defined as the electronic sharing of clinical information among users such as health care providers, patients, administrators or policy makers across the boundaries of health care institutions, health data repositories, States and others, typically not within a single organization or among affiliated providers, while protecting the integrity, privacy, and security of the information.

Comparators

• Time period prior to HIE implementation
• Locations (geographic or organizational without HIE)
• Situations in which HIE is not available, akin to ''usual care'' in a clinical study
• Comparisons across types of HIE
• Comparisons of the characteristics of the different settings, health care system, and IT systems in which HIE is used

Outcomes (specified for each Key Question)

KQ 1: Effectiveness is defined in terms of clinical outcomes (e.g., mortality and morbidity), economic outcomes (e.g., costs and resource use, the value proposition for HIE) and population outcomes (e.g., syndromic surveillance for the identification of trends or clusters).

KQ 2: Harms include unintended negative consequence or adverse events experienced by individuals, institutions, or organizations. Harms from HIE may include negative outcomes or the risk of negative outcomes resulting from information that is wrong, not provided in a timely manner, or in formats that inhibit its identification, comprehension, and use. Harms also may result from too much information as well as lack of information. Harms can also include negative impacts on attitudes (e.g., patients not trusting the privacy will be protected, clinicians' concerns about legal liability).

KQ 3: Intermediate outcomes include outcomes such as provider and patient experience and perceptions; changes in provider behavior and health care processes; and changes in the availability, completeness, or accuracy of information.

KQ 4: Level of use is the rate of HIE use by individuals, health care institutions, or regional organizations.

KQ 5: Usability focuses on the function of the HIE in terms of the interaction between users and HIE and their ability to navigate and accomplish tasks.

KQ 6: Implementation of HIE is defined as the realization of an HIE project such that the exchange of data is operational.

KQ 7: Use is the incorporation of the HIE into the workflow and decisions of patients, providers or organizations.

KQ 8: Sustainability is long-term maintenance, and improvement or expansion of HIE, after the implementation period.

Timing

No minimum duration of time lapsed from implementation of HIE to the measurement of outcomes.

Settings

Any aspect of the setting in which health information is exchanged for the purpose of improving health or health care decisions that is hypothesized to impact effectiveness, use, usability or sustainability. This may include the type(s) of clinical environments (e.g., ambulatory care, hospital, nursing home, etc.), payment/reimbursement model(s) (e.g., fee-for-service, managed care setting, risk/value-based model such as an accountable care organization, etc.), and legislative requirements (e.g., participation in HIE required to participate in Medicaid).

Dated: August 20, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–20425 Filed 8–28–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10147, CMS–2540–10, CMS–265–11, CMS–10106 and CMS–10537]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *September 29, 2014.*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *or* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Prescription Drug Coverage and Your Rights; *Use:* Through the delivery of this standardized notice, Part D plan sponsors' network pharmacies are in the best position to inform enrollees (at the point of sale) about how to contact their Part D plan if their prescription cannot be filled and how to request an exception to the Part D plan's formulary. The notice restates certain rights and protections related to the enrollees Medicare prescription drug benefits, including the right to receive a written explanation from the drug plan about why a prescription drug is not covered.

Form Number: CMS–10147 (OMB control number: 0938–0975); *Frequency:* Occasionally; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 56,000; *Total Annual Responses:* 37,620,000; *Total Annual Hours:* 626,749. (For policy questions regarding this collection contact Kathryn M. Smith at 410–786–7623).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Skilled Nursing Facility and Skilled Nursing Facility Health Care Complex Cost Report; *Use:* Providers of services participating in the Medicare program are required under sections 1815(a), 1833(e) and 1861(v)(1)(A) of the Social Security Act (42 USC 1395g) to submit annual information to achieve settlement of costs for health care services rendered to Medicare beneficiaries. In addition, regulations at 42 CFR 413.20 and 413.24 require adequate cost data and cost reports from providers on an annual basis. Form CMS–2540–10 is used by Skilled Nursing Facilities (SNFs) and Skilled Nursing Facility Complexes participating in the Medicare program to report health care costs to determine the amount of reimbursable costs for services rendered to Medicare beneficiaries.

Form Number: CMS–2540–10 (OMB control number: 0938–0463); *Frequency:* Yearly; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 14,185; *Total Annual Responses:* 14,185; *Total Annual Hours:* 2,865,370. (For policy questions regarding this collection contact Amelia Citerone at 410–786–3901.)

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Independent Renal Dialysis Facility Cost Report and Supporting Regulations; *Use:* Providers of services participating in the Medicare program are required under sections 1815(a) and 1861(v)(1)(A) of the Social Security Act (42 U.S.C. 1395g) to submit annual information to achieve settlement of costs for health care services rendered to Medicare beneficiaries. In addition, regulations at 42 CFR 413.20 and 413.24 require adequate cost data and cost reports from providers on an annual basis. The Form CMS–265–11 cost report is needed to determine a provider's reasonable costs incurred in furnishing medical services to Medicare beneficiaries.

Form Number: CMS–265–11 (OMB control number: 0938–0263); *Frequency:* Yearly; *Affected Public:* Private Sector—Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 5,677; *Total Annual Responses:* 5,677; *Total Annual Hours:* 369,005. (For policy questions regarding this collection contact Gail Duncan at 410–786–7278.)

4. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Medicare Authorization to Disclose Personal Health Information; *Use:* Unless permitted or required by law, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule (§ 164.508) prohibits Medicare (a HIPAA covered entity) from disclosing an individual's protected health information without a valid authorization. In order to be valid, an authorization must include specified core elements and statements. Medicare will make available to Medicare beneficiaries a standard, valid authorization to enable beneficiaries to request the disclosure of their protected health information. This standard authorization will simplify the process of requesting information disclosure for beneficiaries and minimize the response time for Medicare. Form CMS–10106, the Medicare Authorization to Disclose Personal Health Information, will be used by Medicare beneficiaries to authorize Medicare to disclose their protected health information to a third party. *Form Number:* CMS–10106 (OMB control number: 0938–0930); *Frequency:* Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 1,298,329; *Total Annual Responses:* 1,298,329; *Total Annual Hours:* 324,582. (For policy questions regarding this collection contact Sam Jenkins at 410–786–3261.)

5. *Type of Information Collection Request:* New collection (Request for a new control number); *Title of Information Collection:* National Implementation of the Hospice Experience of Care Survey (CAHPs Hospice Survey); *Use:* We are requesting a three-year clearance from the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 to implement the Hospice Experience of Care Survey (HECS), also called the Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Hospice Survey, and to conduct an assessment of the effects of survey administration mode. Under Contract Number HHSM–500–2014–00350G, the project team will implement and analyze a hospice experience of care survey for primary caregivers (i.e., bereaved family members or close friends) of patients who died while receiving hospice care (''decedents''). Specifically, we will: (1) Implement a survey to collect data on experiences of hospice care, and (2) conduct an experiment to examine effects of survey mode (i.e., mail-only, telephone-only, and mail with telephone follow-up).

This survey supports the National Quality Strategy developed by the U.S. Department of Health and Human Services (HHS) that was called for under the Affordable Care Act to create national aims and priorities to guide local, state, and national efforts to

improve the quality of health care. This strategy has established six priorities that support a three-part aim focusing on better care, better health, and lower costs through improvement. The six priorities include: Making care safer by reducing harm caused by the delivery of care; ensuring that each person and family are engaged as partners in their care; promoting effective communication and coordination of care; promoting the most effective prevention and treatment practices for the leading causes of mortality, starting with cardiovascular disease; working with communities to promote wide use of best practices to enable healthy living; and making quality care more affordable for individuals, families, employers, and governments by developing and spreading new health care delivery models. Because the hospice survey focuses on experiences of care, implementation of the survey supports the following national priorities for improving care: Engaging patients and families in care and promoting effective communication and coordination. In addition, national implementation and public reporting of hospice survey results will provide data on experiences with hospice care that enable consumers to make meaningful comparisons between hospices across the nation.

Form Number: CMS–10537 (OMB control number: 0938–New); *Frequency:* Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 561,026; *Total Annual Responses:* 561,026; *Total Annual Hours:* 98,179.55. (For policy questions regarding this collection contact Lori Teichman at 410–786–6684.)

Dated: August 26, 2014.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–20589 Filed 8–28–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10536]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 28, 2014.

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number_____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10536 Medicaid Eligibility and Enrollment (EE) Implementation Advanced Planning Document (IAPD) Template

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* New collection (request for a new OMB Control Number); *Title of Information Collection:* Medicaid Eligibility and Enrollment (EE) Implementation Advanced Planning Document (IAPD) Template; *Use:* To assess the appropriateness of states' requests for enhanced federal financial participation for expenditures related to Medicaid eligibility determination systems, we will review the submitted information and documentation to make an approval determination for the advanced planning document.

Form Number: CMS–10536 (OMB control number: 0938-New); *Frequency:* Yearly, once, and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 168; *Total Annual Hours:* 1,344. (For policy questions regarding this collection contact Christine Gerhardt at 410–786–0693).

Dated: *August 26, 2014.*

Martique Jones,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–20590 Filed 8–28–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–R–245]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are, however, requesting an emergency review of the information collection reference below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. This is necessary to ensure compliance with an initiative of the Administration. We are requesting an emergency review under 5 CFR part 1320(a)(2)(i) because public harm is reasonably likely to result if the normal clearance procedures are followed. We are seeking emergency approval for modifications to the ICR currently approved under Office of Management and Budget (OMB) control number 0938–0760, entitled Medicare and Medicaid Programs OASIS Collection Requirements as Part of the CoPs for HHAs and Supporting Regulations. The revisions contained in this request pertain only to the Outcome Assessment and Information Set, C–1/ICD–9 Version (OASIS–C1/ICD–9 Version); therefore all other requirements in the currently approved PRA package are not being revised. The approval of this data collection instrument is essential because OASIS data is used in the calculation of provider payment as well as for measurement of the quality of care provided by Home Health Agencies (HHAs).

DATES: Comments must be received by September 12, 2014.

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: CMS–245/OMB Control Number 0938–0760, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–R–245 Medicare and Medicaid Programs OASIS Collection Requirements as Part of the CoPs for HHAs and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. This is necessary to ensure compliance with an initiative of the Administration. We are requesting an emergency review under 5 CFR Part 1320(a)(2)(i) because public harm is reasonably likely to result if the normal clearance procedures are followed.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare and Medicaid Programs OASIS Collection Requirements as Part of the CoPs for HHAs and Supporting Regulations; *Use:* The Outcome and Assessment Information Set (OASIS) data set is currently mandated for use by Home Health Agencies (HHAs) as a condition of participation (CoP) in the Medicare program. Since 1999, the Medicare CoPs have mandated that HHAs use the OASIS data set when evaluating adult non-maternity patients receiving skilled services. The OASIS is a core standard assessment data set that agencies integrate into their own patient-specific, comprehensive assessment to identify each patient's need for home care that meets the patient's medical, nursing, rehabilitative, social, and discharge planning needs.

The Office of Management and Budget (OMB) approved the OASIS–C1 information collection request on February 6, 2014. We originally planned

to use OASIS–C1 to coincide with the original implementation of ICD–10 on October 1, 2014. However, on April 1, 2014, the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93) was enacted. This legislation prohibits CMS from adopting ICD–10 coding prior to October 1, 2015. Because OASIS–C1 is based on ICD–10 coding, it is not possible to implement OASIS–C1 prior to October 1, 2015, when ICD–10 is implemented. The passage of the PAMA Act left us with the dilemma of how to collect OASIS data in the interim, until ICD–10 is implemented.

The OASIS–C1/ICD–9 version is an interim version of the OASIS–C1 data item set that was created in response to the legislatively mandated ICD–10 delay. There are five items in OASIS–C1 that require ICD–10 codes. In the OASIS–C1/ICD–9 version, these items have been replaced with the corresponding items from OASIS–C that use ICD–9 coding. The OASIS–C1/ICD–9 version also incorporates updated clinical concepts, modified item wording and response categories and improved item clarity. In addition, the OASIS–C1/ICD–9 version includes a significant decrease in provider burden that was accomplished by the deletion of a number of non-essential data items from the OASIS–C data item set.

Form Number: CMS–R–245 (OMB control number: 0938–0760); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 12,014; *Total Annual Responses:* 17,268,890; *Total Annual Hours:* 15,305,484. (For policy questions regarding this collection contact Caroline Gallaher at 410–786–8705.)

We are requesting OMB review and approval of this collection by September 17, 2014, with a 180-day approval period. Written comments and recommendations will be considered from the public if received by the date and address noted below.

Copies of the supporting statement and any related forms can be found at: *http://www.cms.hhs.gov/PaperworkReductionActof1995* or can be obtained by emailing your request, including your address, phone number, OMB number, and CMS document identifier, to: *Paperwork@cms.hhs.gov,* or by calling the Reports Clearance at: 410–786–1326.

Dated: August 26, 2014.

Martique Jones,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–20577 Filed 8–28–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Runaway and Homeless Youth Management Information System (RHYMIS) Version 3.0.

OMB No.: 0970–0123.

Description: The Runaway and Homeless Youth Act, as amended by Public Law 106–71 (42 U.S.C. 5701 et seq.), mandates that the Department of Health and Human Services (HHS) report regularly to Congress on the status of HHS-funded programs serving runaway and homeless youth. Such reporting is similarly mandated by the Government Performance and Results Act. Organizations funded under the Runaway and Homeless Youth program are required by statute (42 U.S.C. 5712, 42 U.S.C. 5714–2) to meet certain data collection and reporting requirements. These requirements include maintenance of client statistical records on the number and the characteristics of the runaway and homeless youth, and youth at risk of family separation, who participate in the project, and the services provided to such youth by the project.

Respondents: States localities, private entities and coordinated networks of such entities. Typical respondents are non-profit community based organizations who are reporting on the youth that they serve through their Basic Center, Transitional Living and Street Outreach programs.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents *	Number of responses per respondent	Average burden hours per response	Total burden hours
Youth Profile: Basic Center Program (one for each youth)	321	115	0.20	7383
Youth Profile: Transitional Living Program (one for each youth)	205	19	0.250	974
Youth Profile: Street Outreach Program (one for each youth)	138	524	0.073	5279
Brief Agency Contacts Report ** (3 data elements per youth)	664	865	0.05	28718
Data Transfer	664	2	0.50	664

* Number of respondents and response estimates are based on FY 2013 grantee award and annual youth service volumes (the number of grantees awarded and their service volumes change from year to year but not greatly).

** Brief Agency Contacts Report is a new report that combines the elements of the Street Outreach Contacts, Turnaway/Waitlist and Brief Contacts reports that were previously in place.

Estimated Total Annual Burden Hours: 43,018.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV.* Attn:

Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–20594 Filed 8–28–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Evaluation Policy; Cooperative Research or Demonstration Projects

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: Administration for Children and Families (ACF) is announcing its evaluation policy for research or demonstration projects as authorized by 42 U.S.C. 1310.

SUPPLEMENTARY INFORMATION: This evaluation policy builds on ACF's strong history of evaluation by outlining key principles to govern our planning, conduct, and use of evaluation. The evaluation policy reconfirms our commitment to conducting rigorous, relevant evaluations and to using evidence from evaluations to inform policy and practice. ACF seeks to promote rigor, relevance, transparency, independence, and ethics in the conduct of evaluations. This policy addresses each of these principles.

The mission of ACF is to foster health and well-being by providing Federal leadership, partnership, and resources for the compassionate and effective delivery of human services. Our vision is children, youth, families, individuals, and communities who are resilient, safe, healthy, and economically secure. The importance of these goals demands that we continually innovate and improve, and that we evaluate our activities and those of our partners. Through evaluation, ACF and our partners can learn systematically so that we can make our services as effective as possible.

Evaluation produces one type of evidence. A learning organization with a culture of continual improvement requires many types of evidence, including not only evaluation but also descriptive research studies, performance measures, financial and cost data, survey statistics, and program administrative data. Further, continual improvement requires systematic approaches to using information, such as regular data-driven reviews of performance and progress. Although this policy focuses on evaluation, the principles and many of the specifics apply to the development and use of other types of information as well.

This policy applies to all ACF-sponsored evaluations. While much of ACF's evaluation activity is overseen by OPRE, ACF program offices also sponsor evaluations through dedicated contracts or as part of their grant-making. In order to promote quality, coordination, and usefulness in ACF's evaluation activities, ACF program offices will consult with OPRE in developing evaluation activities. Program offices will discuss evaluation projects with OPRE in early stages to clarify evaluation questions and methodological options for addressing them, and as activities progress, OPRE will review designs, plans, and reports. Program offices may also ask OPRE to design and oversee evaluation projects on their behalf or in collaboration with program office staff.

Rigor: ACF is committed to using the most rigorous methods that are appropriate to the evaluation questions and feasible within budget and other constraints. Rigor is not restricted to impact evaluations, but is also necessary in implementation or process evaluations, descriptive studies, outcome evaluations, and formative evaluations; and in both qualitative and quantitative approaches. Rigor requires ensuring that inferences about cause and effect are well founded (internal validity); requires clarity about the populations, settings, or circumstances to which results can be generalized (external validity); and requires the use of measures that accurately capture the intended information (measurement reliability and validity).

In assessing the effects of programs or services, ACF evaluations will use methods that isolate to the greatest extent possible the impacts of the programs or services from other influences such as trends over time, geographic variation, or pre-existing differences between participants and non-participants. For such causal questions, experimental approaches are preferred. When experimental approaches are not feasible, high-quality quasi-experiments offer an alternative.

ACF will recruit and maintain an evaluation workforce with training and experience appropriate for planning and overseeing a rigorous evaluation portfolio. To accomplish this, ACF will recruit staff with advanced degrees and experience in a range of relevant disciplines such as program evaluation, policy analysis, economics, sociology, child development, etc. ACF will provide professional development opportunities so that staff can keep their skills current.

ACF will ensure that contractors and grantees conducting evaluations have appropriate expertise through emphasizing the capacity for rigor in requests for proposal and funding opportunity announcements. This emphasis entails specifying expectations in criteria for the selection of grantees and contractors, and engaging reviewers with evaluation expertise. It also requires allocating sufficient resources for evaluation activities. ACF will generally require evaluation contractors to consult with external advisors who are leaders in relevant fields through the formation of technical work groups or other means.

Relevance: Evaluation priorities should take into account legislative requirements and Congressional interests and should reflect the interests and needs of ACF, HHS, and Administration leadership; program office staff and leadership; ACF partners such as states, territories, tribes, and local grantees; the populations served; researchers; and other stakeholders. Evaluations should be designed to represent the diverse populations that ACF programs serve, and ACF should encourage diversity among those carrying out the work, through building awareness of opportunities and building evaluation capacity among under-represented groups.

There must be strong partnerships among evaluation staff, program staff, policy-makers, and service providers. Policy-makers and practitioners should have the opportunity to influence evaluation priorities to meet their interests and needs. Further, for new initiatives and demonstrations in particular, evaluations will be more feasible and useful when planned in concert with the planning of the initiative or demonstration, rather than as an afterthought. Given Federal requirements related to procurement and information collection, it can take many months to award a grant or contract and begin collecting data. Thus, it is critical that planning for research and evaluation be integrated with planning for new initiatives.

It is important for evaluators to disseminate findings in ways that are accessible and useful to policy-makers and practitioners. OPRE and program offices will work in partnership to inform potential applicants, program providers, administrators, policy-makers, and funders through disseminating evidence from ACF-sponsored and other good quality evaluations.

It is ACF's policy to integrate both use of existing evidence and opportunities for further learning into all of our activities. Where an evidence base is lacking, we will build evidence through strong evaluations. Where evidence exists, we will use it. Discretionary funding opportunity announcements will require that successful applicants cooperate with any Federal evaluations if selected to participate. As legally allowed, programs with waiver authorities should require rigorous evaluations as a condition of waivers. As appropriate, ACF will encourage, incentivize, or require grantees to use existing evidence of effective strategies in designing or selecting service approaches. The emphasis on evidence is meant to support, not inhibit, innovation, improvement, and learning.

Transparency: ACF will make information about planned and ongoing evaluations easily accessible, typically through posting on the web information about the contractor or grantee conducting the work and descriptions of the evaluation questions, methods to be used, and expected timeline for reporting results. ACF will present information about study designs, implementation, and findings at professional conferences.

Study plans will be published in advance. ACF will release evaluation results regardless of the findings. Evaluation reports will describe the methods used, including strengths and weaknesses, and discuss the generalizability of the findings. Evaluation reports will present comprehensive results, including favorable, unfavorable, and null findings. ACF will release evaluation results timely—usually within 2 months of a report's completion.

ACF will archive evaluation data for secondary use by interested researchers, typically through building requirements into contracts to prepare data sets for secondary use.

Independence: Independence and objectivity are core principles of evaluation.[1] Agency and program leadership, program staff, service providers, and others should participate actively in setting evaluation priorities, identifying evaluation questions, and assessing the implications of findings. However, it is important to insulate evaluation functions from undue influence and from both the appearance and the reality of bias. To promote objectivity, ACF protects independence in the design, conduct, and analysis of evaluations. To this end:

- ACF will conduct evaluations through the competitive award of grants and contracts to external experts who are free from conflicts of interest.
- The director of OPRE reports directly to the Assistant Secretary for Children and Families; has authority to approve the design of evaluation projects and analysis plans; and has authority to approve, release, and disseminate evaluation reports.

Ethics: ACF-sponsored evaluations will be conducted in an ethical manner and safeguard the dignity, rights, safety, and privacy of participants. ACF-sponsored evaluations will comply with both the spirit and the letter of relevant requirements such as regulations governing research involving human subjects.

Mark H. Greenberg,

Acting Assistant Secretary for Children and Families.

[FR Doc. 2014–20616 Filed 8–28–14; 8:45 am]

BILLING CODE 4184–79–P

[1]American Evaluation Association, ''An Evaluation Roadmap for a More Effective Government'', November 2013, *http://www.eval.org/d/do/472,* accessed 16 December 2013, and Government Accountability Office, ''Employment and Training Administration: Increased Authority and Accountability Could Improve Research Program'', GAO–10- 243, January 2010, *http://www.gao.gov/products/GAO-10-243,* accessed 18 June 2012.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–0886]

Determination That JADELLE (Levonorgestrel) Implant, 75 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) has determined that JADELLE (levonorgestrel) implant, 75 milligrams (mg), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for JADELLE (levonorgestrel) implant, 75 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Nisha Shah, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6222, Silver Spring, MD 20993–0002, 301–796–4455.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (§ 314.162 (21 CFR 314.162)).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

JADELLE (levonorgestrel) implant, 75 mg, is the subject of NDA 20–544, held by Population Council, and initially approved on November 1, 1996. JADELLE (levonorgestrel) implants, 75 mg, are indicated for the prevention of pregnancy and are a long-term (up to 5 years) reversible method of contraception.

Population Council has never marketed JADELLE (levonorgestrel) implant, 75 mg. Therefore, as in previous instances (see e.g., 72 FR 9763, 61 FR 25497), the Agency has determined, for purposes of §§ 314.161 and 314.162, never marketing an approved drug product is equivalent to withdrawing the drug from sale.

Arnall Golden Gregory, LLP submitted a citizen petition dated July

17, 2013 (Docket No. FDA–2013–P–0886), under 21 CFR 10.30, requesting that the Agency determine whether JADELLE (levonorgestrel) implant, 75 mg, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that JADELLE (levonorgestrel) implant, 75 mg, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that JADELLE (levonorgestrel) implant, 75 mg, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of JADELLE (levonorgestrel) implant, 75 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list JADELLE (levonorgestrel) implant, 75 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to JADELLE (levonorgestrel) implant, 75 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–20634 Filed 8–28–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–S–0009]

Draft Guidance for Industry: Electronic Submission of Lot Distribution Reports; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Electronic Submission of Lot Distribution Reports'' dated August 2014. The draft guidance document provides information and recommendations pertaining to the electronic submission of lot distribution reports for applicants with approved biologics license applications (BLAs). FDA recently published in the **Federal Register** a final rule requiring that, among other things, lot distribution reports be submitted to FDA in an electronic format that the Agency can process, review, and archive. The draft guidance, when finalized, is intended to help licensed manufacturers of products distributed under approved BLAs (henceforth referred to as applicants) comply with the final rule.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by November 28, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002 or Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–7800 or CDER at 301–796–3400. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lori J. Churchyard, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911 or Jared Lantzy, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1116, Silver Spring, MD 20993–0002, email: *esub@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Electronic Submission of Lot Distribution Reports'' dated August 2014. The draft guidance provides information and recommendations pertaining to the electronic submission of lot distribution reports. The draft guidance provides information on how to electronically submit lot distribution reports for biological products under approved BLAs for which CBER or CDER has regulatory responsibility. When finalized, this guidance will not apply to any other biological product.

FDA recently published in the **Federal Register** of June 10, 2014 (79 FR 33072), a final rule requiring electronic submission of certain postmarketing submissions. Among other things, under this rule applicants are required to submit biological lot distribution reports to FDA in an electronic format that the Agency can process, review, and archive. The draft guidance, when finalized, is intended to help applicants subject to lot distribution reporting comply with the final rule. Along with other information, the draft guidance provides updated information about the following: (1) Structured Product Labeling standard and vocabulary for electronic submission of lot distribution reporting; (2) additional resources such as implementation guide, validation procedures; and links with further information; and (3) procedures for requesting temporary waivers from the electronic submission requirement.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 600.81 and

600.90 have been approved under OMB control number 0910–0308.

III. Comments

The draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.regulations.gov*.

Dated: August 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–20635 Filed 8–28–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Training in Primary Care Medicine and Dentistry; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD).

Dates and Times: September 15, 2014, 9:00 a.m.–2:00 p.m. (EST).

Place: Webinar and Conference Call Format.

Status: The meeting will be open to the public.

Purpose: The ACTPCMD provides advice and recommendations on a broad range of issues related to grant programs authorized by sections 222 and 749 of the Public Health Service Act, as amended by section 5103(d) and re-designated by section 5303 of the Patient Protection and Affordable Care Act of 2010.

Agenda: This webinar meeting will begin with opening remarks from Health Resources and Service Administration (HRSA) senior officials and include a final discussion and vote on the committee's 11th Report to Congress. Additional agenda items include: review of a letter of support for the Teaching Health Center Graduate Medical Education program, a brief program update by HRSA staff, and discussion on a topic for the committee's next report.

The agenda will be available 2 days prior to the meeting on the HRSA Web site (*http://www.hrsa.gov/advisorycommittees/bhpradvisory/actpcmd/index.html*). Agenda items are subject to change as priorities dictate.

Public Comment: An opportunity will be provided for public comment at the end of the meeting, or written comments to the members may be sent, not later than five days prior to the meeting date, to Shane Rogers at *srogers@hrsa.gov.* As this meeting will be conducted via webinar format, a Question and Answer Pod will also be available for public comment as well.

SUPPLEMENTARY INFORMATION: Information on accessing the webinar will be available via the following Web site not later than two days prior to the meeting date: *http://www.hrsa.gov/advisorycommittees/bhpradvisory/actpcmd/index.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Shane Rogers, Designated Federal Official, ACTPCMD, Bureau of Health Workforce, Health Resources and Services Administration, Room 12C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, call 301–443–5260, or email *srogers@hrsa.gov.*

Dated: August 22, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–20599 Filed 8–28–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Council on Graduate Medical Education; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given of the following meeting:

Name: Council on Graduate Medical Education (COGME).

Dates and Times: September 12, 2014, 9:00 a.m.–3:00 p.m. (EST).

Place: Webinar and Conference Call Format.

Status: The meeting will be open to the public.

Purpose: The COGME provides advice and recommendations to the Secretary of the Department of Health and Human Services and to Congress on a range of issues including the supply and distribution of physicians in the United States, current and future physician shortages or excesses, issues relating to foreign medical school graduates, the nature and financing of medical education training, and the development of performance measures and longitudinal evaluation of medical education programs.

Agenda: This webinar meeting will begin with opening remarks from Health Resources and Service Administration (HRSA) senior officials and include a vote on the Council's next Vice Chair. The meeting will also include discussion on the Council's 22nd Report to Congress as well as a brief update by the Designated Federal Official on the Council's current status.

The agenda will be available 2 days prior to the meeting on the HRSA Web site (*http://www.hrsa.gov/advisorycommittees/bhpradvisory/cogme/index.html*). Agenda items are subject to change as priorities dictate.

Public Comment: An opportunity will be provided for public comment at the end of the meeting, or written comments to the members may be sent, no later than 5 days prior to the meeting date, to Shane Rogers at *srogers@hrsa.gov.* As this meeting will be conducted via webinar format, a Question and Answer Pod will also be available for public comment as well.

SUPPLEMENTARY INFORMATION: Information on accessing the webinar will be available via the following Web site no later than 2 days prior to the meeting date: *http://www.hrsa.gov/advisorycommittees/bhpradvisory/cogme/index.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Shane Rogers, Designated Federal Official, COGME, Bureau of Health Workforce, Health Resources and Services Administration, Room 12C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, call 301–443–5260, or email *srogers@hrsa.gov.*

Dated: August 22, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–20598 Filed 8–28–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Start-up Option License: Use of Oligodeoxynucleotide as Neuroprotectants in Cerebral and Other Ischemic Injury

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 (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive start-up option license to practice the inventions embodied in: (E–147–1999/0 &1) US provisional patent application No. 60/128/898 filed 4/12/1999, and PCT application No. PCT/US00/09839 filed 4/12/2000, and U.S. patent No. 6,977,245 filed 02/06/2002 issued 12/20/2005, and U.S. patent No. 7,960,356 filed 05/17/2005 and issued 06/14/2011, and EP1176966 granted 4/3/2013, each entitled ''Oligodeoxynucleotide and Its Use to Induce an Immune Response''; and (E–036–2005/0) US provisional patent application No. 60/713,547 filed August 31, 2005, and PCT application No. PCT/US2006/033774 filed August 28, 2006, and US patent 7,892,569 filed 8/31/2005 issued 2/22/2011, and Canada application number 2620582 filed 2/28/08, and Australia patent 2006284889 filed 8/28/2006 issued 12/1/11, and Japan patent 5481068 filed 8/28/2006 issued 2/21/2014, each entitled ''Method of Altering an Immune Response Induced by CpG Oligodeoxynucleotides''; and (E–214–2001/0) US provisional patent application No. 60/312,190 filed August 14, 2001, and PCT application No. PCT/US202/025732, and US patent 7,354,909 filed February 2, 2004 issued April 8, 2008, and US patent 7,959,934 filed March 28, 2008 issued June 14, 2011, each entitled ''Method for Rapid Generation of Mature Dendritic Cells'' by Klinman et al. (FDA), to Neuralexo, LLC, having a place of business at 17367 Canal Circle, Lake Oswego, Oregon 97035.

The United States of America is an assignee to the patent rights of these inventions.

The prospective exclusive start-up option licensed territory may be worldwide, and the field of use may be limited to: preventative treatment for ischemic injury in organs.

DATES: Only written comments and/or application for a license that are received by the NIH Office of Technology Transfer on or before September 15, 2014 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Tedd Fenn, Senior Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: *fennea@mail.nih.gov*; Telephone: 424–297–0336; Facsimile: 301–402–0220.

SUPPLEMENTARY INFORMATION:

This invention relates to compositions and methods of use of oligodeoxynucleotides (ODNs) expressing CpG motifs to induce immune responses. These ODN motifs trigger immune system responses which may mediate inflammatory responses to tissue injury, such as those responses following ischemic damage to the central nervous system. Structural differences between various ODNs may stimulate distinct cell populations, allowing selective targeting of immune responses for therapeutic purposes. Non-human primate and animal models using specific ODNs for pharmacological preconditioning have shown that ODNs may act therapeutically as neuroprotectants from ischemic damage. These TLR ligands as may be useful therapeutically as neuroprotectants in ischemic injury.

The prospective exclusive start-up option 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 start-up option license may be granted unless 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 within fifteen (15) days from the date of this published notice.

Complete 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 start-up option license. Comments and objections submitted in response 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 25, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–20548 Filed 8–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel ADRC Review Meeting.

Date: October 14–15, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Elaine Lewis, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: August 25, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20552 Filed 8–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Abuse.
Date: September 17, 2014.
Time: 3:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Therapeutics.
Date: September 24, 2014.
Time: 1:00 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *tothct@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Cellular, Molecular, and Immunobiology Study Section.
Date: October 1–2, 2014.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Riverwalk, 217 N. St. Mary's Street, San Antonio, TX 78205.
Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.
Date: October 1, 2014.
Time: 8:00 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Torrance Marriott South Bay, 3635 Fashion Way, Torrance, CA 90503.
Contact Person: Baljit S. Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biodata Management and Analysis Study Section.
Date: October 1–2, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Mark Caprara, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7844, Bethesda, MD 20892, 301–435–1042, *capraramg@mail.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.
Date: October 1–2, 2014.
Time: 8:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC 20005.
Contact Person: Jin Huang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4199, MSC 7812, Bethesda, MD 20892, 301–435–1230, *jh377p@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 14–073 Shared Instrumentation: Bioengineering Sciences.
Date: October 1, 2014.
Time: 1:00 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ping Fan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–408–9971, *fanp@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biomaterials and Biointerfaces Study Section.
Date: October 1–3, 2014.
Time: 7:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Historic Inns of Annapolis, 58 State Circle, Annapolis, MD 21401.
Contact Person: Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroendocrinology, Neuroimmunology, Rhythms and Sleep Study Section.
Date: October 2–3, 2014.
Time: 8:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Monaco Baltimore, 2 North Charles Street, Baltimore, MD 21201.
Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.
Date: October 2–3, 2014.
Time: 8:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Washington DC, Dupont Circle, 1143 New Hampshire Avenue NW, Washington, DC 20037.
Contact Person: William A. Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.
Date: October 2–3, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Westin Georgetown, 2350 M Street, NW, Washington, DC 20037.
Contact Person: Anna L. Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, (301) 435–2889, *rileyann@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.
Date: October 2–3, 2014.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW, Washington, DC 20015.
Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 5181 MSC 7846, Bethesda, MD 20892–7846, 301–435–1236, *zhaow@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—A Study Section.
Date: October 2–3, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: August 25, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20545 Filed 8–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, September 08, 2014, 06:00 p.m. to September 09, 2014, 05:30 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on August 22, 2014, 79FR49787.

The meeting notice is being amended to cancel the Ad hoc Subcommittee on Global Cancer Research on September 8, 2014.

Dated: August 25, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20551 Filed 8–28–14; 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 the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Management and Health Behavior.

Date: October 20–21, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ellen K. Schwartz, EDD, Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W264, Bethesda, MD 20892–9750, 240–276–6384, *schwarel@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Omnibus SEP–8.

Date: December 10, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W640, Rockville, MD 20859 (Telephone Conference Call).

Contact Person: Ilda F. S. Melo, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W640, Bethesda, MD 20892–9750, 240–276–6349, *ilda.melo@.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.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 25, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20546 Filed 8–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group, Health Disparities and Equity Promotion Study Section.

Date: September 29–30, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Delia Olufokunbi Sam, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, 301–435–0684, *olufokunbisamd@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group, Kidney Molecular Biology and Genitourinary Organ Development.

Date: September 30, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: Ryan G Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–12–155: Integrative Omics Data Analysis for Discovery in Lung Diseases.

Date: September 30, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184,

MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverase@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 22, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20544 Filed 8–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group Behavior and Social Science of Aging Review Committee.

Date: October 2–3, 2014.

Time: 4:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kimberly Firth, Ph.D., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *kimberly.firth@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: August 25, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20553 Filed 8–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Translational Research Review.

Date: September 26, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Christine A. Livingston, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6001 Executive Blvd., Room 8343, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: August 22, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–20547 Filed 8–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5750–N–35]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2265 (This is not a toll-free number.) HHS

will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Army:* Ms. Veronica Rines, Office of the Assistant Chief of Staff for Installation Management, Department of Army, Room 5A128, 600 Army Pentagon, Washington, DC 20310, (571) 256–8145; (This is not a toll-free number).

Dated: August 21, 2014.

Brian P. Fitzmaurice

Director, Division of Community Assistance Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 08/29/2014

Unsuitable Properties

Building

California

00178
Sierra Army Depot
Herlong CA 96113
Landholding Agency: Army
Property Number: 21201430029
Status: Unutilized
Directions: 00178
Comments: Public access denied and no alternative without compromising national security.
Reasons: Secured Area

[FR Doc. 2014–20272 Filed 8–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[145D0102DM DMSN000000.000000 DS10700000 DX.10701.CEN00000]

Proposed Renewal of Information Collection; OMB Control Number 1085–0001, Source Directory of American Indian and Alaska Native Owned and Operated Arts and Crafts Businesses

AGENCY: Indian Arts and Crafts Board, Department of the Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Indian Arts and Crafts Board announces the proposed extension of a public information collection and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by October 28, 2014.

ADDRESSES: Send your written comments to: Attention—Indian Arts and Crafts Board, U.S. Department of the Interior, 1849 C Street NW., MS–2528 MIB, Washington, DC 20240. If you wish to submit comments by facsimile, the number is (202) 208–5196, or you may send them by email to *iacb@ios.doi.gov.* Please mention that your comments concern the Source Directory, OMB Control #1085–0001.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, see the contact information provided in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for renewal of information collection.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)).

The Source Directory of American Indian and Alaska Native Owned and Operated Arts and Crafts Businesses (Source Directory) is a program of the Indian Arts and Crafts Board that promotes American Indian and Alaska Native arts and crafts. The Source Directory is a listing of American Indian and Alaska Native-owned and-operated arts and crafts businesses that may be accessed by the public on the Indian Arts and Crafts Board's Web site: *http://www.doi.gov/iacb.*

The service of being listed in this directory is provided free-of-charge to members of federally recognized Tribes. Businesses listed in the Source Directory include American Indian and Alaska Native artists and craftspeople, cooperatives, Tribal arts and crafts enterprises, businesses privately-owned and-operated by American Indian and Alaska Native artists, designers, and craftspeople, and businesses privately-owned and -operated by American Indian and Alaska Native merchants who retail and/or wholesale authentic Indian and Alaska Native arts and crafts. Business listings in the Source Directory are arranged alphabetically by State.

The Director of the Indian Arts and Crafts Board uses this information collected in information collection 1085–0001 to determine whether an individual or business applying to be listed in the Source Directory meets the requirements for listing. If approved, the application will be included in the Source Directory. The Source Directory is updated annually to include new businesses and to update existing information.

To be listed in the Source Directory, interested individuals and businesses must submit: (1) A draft of their business information in a format like the other Source Directory listings, (2) a copy of the individual's or business owner's Tribal enrollment card; and for businesses, proof that the business is organized under Tribal, state, or federal law; and (3) a certification that the business is an American Indian or

Alaska Native-owned and-operated cooperative, Tribal enterprise, or nonprofit organization, or that the owner of the enterprise is an enrolled member of a federally recognized American Indian Tribe or Alaska Native group.

The following information is collected in a single-page form that is distributed by the Indian Arts and Crafts Board. Although listing in the Source Directory is voluntary, submission of this information is required for inclusion in the Directory.

Information collected	Reason for collection
Name of business, mailing address, city, zip code (highway location, Indian reservation, etc.), telephone number and e-mail address.	To identify the business to be listed in the Source Directory, and method of contact.
Type of organization	To identify the nature of the business entity.
Hours/season of operation	To identify those days and times when customers may contact the business.
Internet Web site address	To identify whether the business advertises and/or sells inventory online.
Social Media	To identify the products that the business produces.
Main categories of products	To identify the products that the business produces.
Retail or wholesale products	To identify whether the business is a retail or wholesale business.
Mail order and/or catalog	To identify whether the business has a mail order and/or catalog.
Price list information, if applicable	To identify the cost of the listed products.
For a cooperative or tribal enterprise, a copy of documents showing that the organization is formally organized under tribal, state or federal law.	To determine whether the business meets the eligibility requirement for listing in the Source Directory.
Signed certification that the business is an American Indian or Alaska Native-owned and -operated cooperative, tribal enterprise, or nonprofit organization.	To obtain verification that the business is an American Indian or Alaska Native-owned and -operated business.
Copy of the business owner's tribal enrollment card	To determine whether the business owner is an enrolled member of a federally recognized tribe.
Signed certification that the owner of the business is a member of a federally recognized tribe.	To obtain verification that the business owner is an enrolled member of a federally recognized tribe.

II. Data

(1) *Title:* Department of the Interior, Indian Arts and Crafts Board, Source Directory of American Indian and Alaska Native-owned and -operated arts and crafts businesses.

OMB Control Number: 1085–0001.

Current Expiration Date: January 31, 2015.

Type of Review: Information Collection Renewal.

Affected Entities: Business or for-profit; tribes.

Estimated annual number of respondents: 100.

Frequency of responses: Annual.

(2) Annual reporting and recordkeeping burden:

Total annual reporting per response: 15 minutes.

Total number of estimated responses: 100.

Total annual reporting: 25 hours.

(3) Description of the need and use of the information: Submission of this information is required to receive the benefit of being listed in the Indian Arts and Crafts Board Source Directory. The information is collected to determine the applicant's eligibility for the service and to obtain the applicant's name and business address to be added to the online directory.

III. Request for Comments

The Departments invite comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden of the collection of information and 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 appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the Indian Arts and Crafts Board in Room 2528 of the Main Interior Building, 1849 C Street NW., Washington, DC from 9 a.m. until 3 p.m., Monday through Friday, excluding legal holidays. A valid picture identification is required for entry into the Department of the Interior.

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

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: August 21, 2014.

Meridith Z. Stanton,

Director, Indian Arts and Crafts Board.

[FR Doc. 2014–20626 Filed 8–28–14; 8:45 am]

BILLING CODE 4310–4H–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R7–ES–2014–0031; FF07CAMM00–FX–FR133707SEA00]

Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorization

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application and proposed incidental harassment authorization; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received applications from Apache Alaska Corporation (Apache), SAExploration, Inc., LLC (SAE), and BlueCrest Energy, Inc. (BlueCrest), formerly Buccaneer Alaska Operations, LLC, for authorization under the Marine Mammal Protection Act of 1972 (MMPA), as amended, to take small numbers of northern sea otters from the Southcentral stock by harassment incidental to proposed oil and gas exploration activities in Cook Inlet, Alaska. In accordance with provisions of the MMPA, we request comments on our proposed authorization for the applicant to incidentally take, by harassment, small numbers of northern sea otters from the Southcentral stock for a period of 1 year. We anticipate no take by injury or death and include none in this proposed authorization, which would be for take by harassment only.

DATES: Comments and information must be received by September 29, 2014.

ADDRESSES: *Document availability:* The incidental harassment authorization applications, associated environmental assessments, and supporting documentation, such as Literature Cited, are available for viewing at *http://www.fws.gov/alaska/fisheries/mmm/iha.htm* or at *www.regulations.gov* at Docket No. FWS–R7–ES–2014–0031.

Comment submission: You may submit comments on the proposed Incidental Harassment Authorization and associated environmental assessments by one of the following methods:

- U.S. mail or hand-delivery: Public Comments Processing, ATTN: FWS–R7–ES–2014–0031, U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803; or
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R7–ES–2014–0031.

Please indicate to which document, the proposed Incidental Harassment Authorization, or the environmental assessments, your comments apply. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Request for Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: To request copies of the application, the list of references used in the notice, and other supporting materials, contact Craig Perham, 1–800–362–5148; Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503; or by email at *craig_perham@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA, as amended (16 U.S.C. 1371 (a)(5)(A) and (D)), authorize the Secretary of the Interior to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, provided that we make certain findings and either issue regulations or, if the taking is limited to harassment, provide a notice of a proposed authorization to the public for review and comment.

We may grant authorization to incidentally take marine mammals if we find that the taking will have a negligible impact on small numbers of the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. As part of the authorization process, we prescribe permissible methods of taking, and other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal. Harassment, as defined by the MMPA, means ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [the MMPA calls this Level A harassment], or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [the MMPA calls this Level B harassment].''

The terms ''small numbers,'' ''negligible impact,'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified activities. ''Small numbers'' is defined as ''a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.'' However, we do not rely on that definition here, as it conflates the terms ''small numbers'' and ''negligible impact,'' which we recognize as two separate and distinct requirements. Instead, in our small numbers determination, we evaluate whether the number of marine mammals likely to be taken is small relative to the size of the overall population. ''Negligible impact'' is defined as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' ''Unmitigable adverse impact'' is defined as ''an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.''

Section 101(a)(5)(D) of the MMPA establishes an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals where the take will be limited to harassment. Section 101(a)(5)(D)(iii) establishes a 45-day time limit for Service review of an application, followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, we must either issue or deny issuance of the authorization. We refer to these authorizations as Incidental Harassment Authorizations (IHAs).

The Service has issued IHAs for sea otters in the past. These include: three IHAs incidental to airport construction on Akun Island and hovercraft operation between Akun Island and Akutan, Alaska (August 27, 2008 [73 FR 50634]; June 8, 2010 [75 FR 32497];

April 1, 2011 [76 FR 18232]); and one IHA incidental to construction activities associated with a tidal wetlands restoration project on the Elkhorn Slough National Estuarine Research Reserve in Monterey County, CA (July 20, 2010 [75 FR 42121].

Summary of Requests

Apache Corporation

On April 15, 2014, the Service received an application from Apache Corporation (Apache) to take, by harassment, northern sea otters from the Southcentral stock (*Enhydra lutris kenyoni;* hereafter referred to as sea otter) incidental to a three-dimensional (3D) nodal or ocean-bottom node seismic survey program in State waters of lower Cook Inlet, Alaska. Apache plans to conduct the seismic surveys, south of Ninilchik, starting in mid-October 2014 during open water periods at slack tides. The proposed seismic surveys would take place on Apache's leases, which encompass approximately 4,882 square kilometers (km) (1,885 square miles (mi)) in water depths of 0 to 128 meters (m) (0 to 420 feet (ft)) of onshore, transition (intertidal), and offshore zones (Figure 1). These areas are identified in Apache's application as Area 2.

SAExploration, Inc.

On October 28, 2013, the Service received an application from SAExploration, Inc. (SAE) for the taking, by harassment, of sea otters from the Southcentral stock incidental to a 3D nodal or ocean-bottom node seismic survey program in State and Federal waters in lower Cook Inlet starting on December 1, 2014. The surveys will conclude before the IHA expires. The proposed seismic survey would occur in the marine waters of both upper and lower Cook Inlet. The survey area is divided into two units: (1) Upper Cook Inlet, an area of 2,126 square km (821 square mi) beginning at Point Possession, to a line approximately 10 km (6 mi) south of both the West Foreland and East Foreland; and (2) lower Cook Inlet, a 1,808-square-km (698-square-mi) area beginning east of Kalgin Island and running along the east side of lower Cook Inlet to Anchor Point. We focused on the lower Cook Inlet area because sea otters do not occur in upper Cook Inlet (Figure 1).

BlueCrest

On April 15, 2014, Buccaneer/BlueCrest Alaska Operations, LLC (BlueCrest) submitted an IHA application to the Service requesting take of small numbers of sea otters from the Southcentral stock during the Cosmopolitan exploratory drilling program in lower Cook Inlet during the November 1, 2014, through October 31, 2015, period. These two well locations (Cosmopolitan State #1 and Cosmopolitan State #2; Figure 1) are within the State of Alaska Division of Land Oil and Gas Lease 384403.

These applications are available as specified above in **ADDRESSES**.

Prior to issuing IHAs in response to these three requests, we must evaluate the level of industrial activities described in the applications, their associated potential impacts to sea otters, and their effects on the availability of this species for subsistence use. The information provided by the applicants indicates that oil and gas activities projected over the next year will encompass onshore and offshore exploration activities. The Service is tasked with analyzing the impact that lawful industrial activities will have on sea otters during normal operating procedures.

Description of the Specified Activities

Apache Corporation

Apache will perform the proposed seismic survey operations from multiple vessels starting in mid-October 2014. Two source vessels will be used, both equipped with compressors and 2,400-cubic-inch airgun arrays. One source vessel also will be equipped with a 440-cubic-inch shallow-water airgun array, which can be deployed at high tide in the intertidal area in less than 1.8 m (5.9 ft) of water. Three shallow draft vessels and one mitigation vessel will support cable/nodal deployment and retrieval operations. One vessel will house and recharge the receiver nodes, and two smaller jet boats will be used for personnel transport and node support in the extremely shallow water of the intertidal area. For additional information, such as vessel specifications, see Apache's application (*http://alaska.fws.gov/fisheries/mmm/itr.htm*).

Apache anticipates conducting in-water survey operations 24 hours per day. During each 24-hour period, seismic operations will be active; however, in-water airgun activity can occur only during slack tides because of the strong currents. In general, there are four slack tides in a 24-hour period and airguns can typically operate for 2–3 hours around each slack tide, yielding a maximum of 8–12 hours of airgun operations in a given day.

The 2,400-cubic-inch airgun arrays and the 440-cubic-inch airgun array will be used to obtain geological data during the survey. The acoustic source level of the 2,400-cubic-inch airgun array was predicted using an airgun array source model developed by JASCO Applied Sciences. The 190, 180, and 160 dB_{rms} re 1 μPa (standard industry reference for sound pressure levels) isopleths were estimated at three different water depths (5 m, 25 m, and 45 m; 16.4 ft, 82 ft, 147.6 ft) for nearshore surveys and at 80 m (262.5 ft) for channel surveys. The distances to these thresholds for the nearshore survey locations are provided in Table 1 and correspond to the three transects modeled at each site in the onshore, nearshore, and parallel-to-shore directions.

TABLE 1—DISTANCES TO SOUND THRESHOLDS FOR NEARSHORE SURVEYS FOR THE 2014 APACHE SEISMIC SURVEY, LOWER COOK INLET, ALASKA

Sound level threshold (dB re 1 μPa)	Water depth at source location (m)	Distance in the onshore direction (km)	Distance in the offshore direction (km)	Distance in the parallel-to-shore direction (km)
160	5	0.85	3.91	1.48
	25	4.70	6.41	6.34
	45	5.57	4.91	6.10
190	5	0.28	0.33	0.33
	25	0.35	0.36	0.44
	45	0.10	0.10	0.51

An acoustical positioning (or pinger) system will be used to determine the geo-referenced positions of the nodes after they have been placed on the seafloor. One device, the Scout Ultra-Short Baseline Transceiver, operates at frequencies of 33–55 kilohertz (kHz) at a maximum source level of 188 dB re 1 μPa at 1 m. The other device, an LR Ultra-Short Baseline Transponder, operates at frequencies of 35–50 kHz at a source level of 185 dB re 1 μPa at 1 m. With respect to these two sound sources, the Service will rely on the distance to the Level B harassment threshold for sea otters estimated for the higher sound pressure level of the two devices as provided by Apache. Therefore, assuming a simple spreading loss of 20 log R (where R is radius) with a source level of 188 dB, the distances to the 190 and 160 dB isopleths would be 1 m and 25 m (3.2 ft and 82 ft), respectively. Another technique for locating the nodes in deeper water is called Ocean Bottom Receiver Location, which uses a small volume airgun (10 cubic inches) firing parallel to the node line.

Apache will also conduct seismic survey activities in onshore and intertidal areas that will be surveyed using nodal technology and explosives as the sound source. To access the onshore drill sites, Apache will use a combination of helicopter portable and tracked vehicle drills. In September 2011, Apache conducted sound source verification to characterize the underwater received sound levels resulting from land-based explosives. Shot locations for the land-based explosives were acoustically monitored to determine if underwater received sound levels exceeded the harassment threshold of 160 dB re 1 μPa. Received levels detected by the real-time vessel-based data logging systems located 3 km (1.86 mi) from the nearest shot hole were well below the harassment threshold criterion of 160 dB re 1 Pa rms. A detailed description of the proposed seismic survey activities in onshore and intertidal areas can be found in Apache's Environmental Assessment (EA).

SAExploration, Inc.

SAExploration plans to conduct 3D nodal or ocean-bottom node seismic surveys in State and Federal waters within both upper and lower Cook Inlet. The seismic acquisition in the lower Cook Inlet unit would initially begin in December 2014, and start in the northern half of their action area to avoid encounters with summering marine mammals near Anchor Point. Completing this work in the lower Cook Inlet unit is estimated to take 60 to 80 days.

Two source vessels will be used with multiple jet-driven shallow draft vessels for deployment and retrieval of offshore recording equipment. There will also be a housing vessel with a crew transfer and mitigation vessels (see SAE's EA for more details regarding specifications of these vessels). The components of the project include laying nodal recording sensors (nodes) on the ocean floor, operating seismic source vessels towing active airgun arrays, and retrieval of nodes.

SAExploration's seismic surveys will primarily utilize a 1,760-cubic-inch sleeve airgun array, although 440- or 880-cubic-inch arrays may be used in shallow water locations. The configuration of each array is outlined in SAE's application (*http://alaska.fws.gov/fisheries/mmm/itr.htm*). The arrays will be centered approximately 15 m (50 ft) behind the source vessel, at a depth of 4 m (12 ft), and towed along predetermined source lines at speeds between 7.4 and 9.3 km per hour (4 and 5 knots). SAE proposes to operate two vessels with full arrays, operating simultaneously in an alternating shot mode; one vessel shooting while the other is recharging. Shot intervals are expected to be about 8 to 10 seconds for each array, resulting in an overall shot interval of 4 to 5 seconds, considering the two simultaneous arrays. Actual daily shooting will be confined to 2 to 3 hours at each slack tide occurring during daylight hours, or about 8 to 10 hours at most in a given day. Based on the manufacturer's specifications, the 1,760-cubic-inch array has a peak-to-peak estimated sound source of 254.55 dB re 1 μPa at1 m.

SAExploration's marine seismic operations will be based on a ''recording patch'' or similar approach. Patches will contain groups of 6 receiver lines and 32 source lines. Each receiver line has submersible marine nodes tethered equidistant (50 m; 165 ft) from each other along the length of the line. Each node will contain three velocity sensors and a hydrophone. The receiver lines will be approximately 8 km (5 mi) in length, and spaced approximately 402 m (1,320 ft) apart. Each receiver patch will cover approximately 19.4 square km (7.5 square mi) in area. The receiver patches will be oriented such that the receiver lines run parallel to the shoreline.

Source lines, 12 km (7.5 mi) long and spaced 502 m (1,650 ft) apart, will run perpendicular to the receiver lines and, where possible, will extend approximately 5 km (3 mi) beyond the outside receiver lines and approximately 4 km (2.5 mi) beyond each of the ends of the receiver lines. The outside dimensions of the maximum shot area during a patch shoot will be 12 km by 16 km (7.5 mi by 10 mi) and all shot areas will be wholly contained within the 1,808-square-km (698-square-mi) survey box. Shot intervals along each source line will be 50 m (165 ft).

It may take a period of 3 to 5 days to deploy, shoot, and record a single receiver patch. During recording of one patch, nodes from the previously surveyed patch will be retrieved, recharged, and data downloaded prior to redeployment of the nodes to the next patch. As patches are recorded, receiver lines are moved side to side or end to end to the next patch.

Autonomous recording nodes lack cables but will be tethered together using thin rope for ease of retrieval. This rope and nodes will lay on the seabed surface. A GPS will be attached to the airgun array for the primary vessel positioning. Nodes will be positioned using pingers deployed from the node vessels. Patch geometry may be modified during operations to improve sampling and operational efficiency.

As mentioned above, an acoustical positioning (or pinger) system will be used to position the nodes. A vessel-mounted transceiver calculates the position of the nodes by measuring the range and bearing from the transceiver to a small acoustic transponder fitted to every third node. The transceiver uses sonar to interrogate the transponders, which respond with short pulses that are used in measuring the range and bearing. The system provides a precise location of every node as needed for accurate interpretation of the seismic data. The transceiver to be used is the Sonardyne Scout USBL, while transponders will be the Sonardyne TZ/OBC Type 7815–000–06. Because the transceiver and transponder communicate via sonar, they produce underwater sound levels. The Scout USBL transceiver has a transmission source level of 197 dB re 1 μPa at 1 m and operates at frequencies between 35 and 55 kHz. The transponder produces short pulses of 184 to 187 dB re 1 μPa at 1 m at frequencies also between 35 and 55 kHz.

BlueCrest Alaska Operations, LLC

BlueCrest proposes to conduct exploratory and delineation drilling operations at two well locations in the Cosmopolitan Unit in Cook Inlet during the 2014 summer drilling season until October 31, 2014. These plans include exploratory gas-only drilling operations at Cosmopolitan State #2, possible

delineation well drilling at either Cosmopolitan State #1 or #2, and possible deeper drilling for oil at either well depending on permitting schedules.

Cosmopolitan #1 is located just off Cape Starichkof about 12.9 km (8 mi) north of Anchor Point (59°53′12.87″ N/ −151°52′57.71″ W; Figure 1) in approximately 24 m (78 ft) of water at 4.8 km (3 mi) from shore. Cosmopolitan #2 is located 11.3 km (7 mi) north of Anchor Point (59°52′17.37'' N/ −151°51′55.09″ W; Figure 1) in about 16.5 m (54 ft) of water at 3.2 km (2 mi) from shore. BlueCrest's project area also includes two routes between the Port of Homer and Cosmopolitan.

Drill Rig

BlueCrest will conduct its exploratory drilling using the *Endeavour,* an independent leg, cantilevered jack-up drill rig of the *Marathon LeTourneau* Class 116–C that is capable of drilling to 7,620 m (25,000 ft) in water depths from 4.6 to 91 m (15 to 300 ft).

The *Endeavour* will be mobilized from Port Graham, Alaska, to the Cosmopolitan State #2 well site, a distance of about 50 km (31 mi), for drilling operations. Cosmopolitan #2 and #1 are located 1.6 km (1.0 mi) apart, and any subsequent moves between the two sites will be limited. The rig will be towed between locations by ocean-going tugs. Rig moves will be conducted in a manner to minimize any potential risk regarding safety as well as cultural or environmental impact.

Rig Support

Helicopters (twin turbine Bell 212 or equivalent) will be used to transport personnel, groceries, and supplies to and from the rig. The helicopter will be based at the Kenai Airport to support rig crew changes and cargo handling. Fueling will take place at these facilities. No helicopter refueling will take place on the rig.

Helicopter flights to and from the rig are expected to average two per day. Flight routes will follow a direct route to and from the rig location, and flight heights will be maintained 300 to 450 m (1,000 to 1,500 ft) above ground level to avoid harassment of marine mammals (Richardson *et al.* 1995). The helicopter will be dedicated to the drilling operation and will be available for service 24 hours per day. A replacement helicopter will be available when major maintenance items are scheduled. Supplies (fuel, drilling water, mud materials, cement, casing, and well service equipment) will be staged onshore at the Offshore Systems Dock. Required supplies and equipment will be moved from the staging area by contracted supply vessels and loaded aboard the rig when the rig is established on a drilling location.

Rig equipment will use diesel fuel or electricity. Personnel associated with fuel delivery, transfer, and handling will be knowledgeable of Industry Best Management Practices related to fuel transfer and handling, drum labeling, secondary containment guidelines, and the use of liners/drip trays. The jack-up rig will take on a maximum fuel load prior to operations to reduce fuel transfers during drilling. Commercial tank farms in the Nikiski or Kenai area will supply fuel transported by barge as needed. The rig barge master will be in charge of refueling and fluid transfers between the rig and fuel barge, and subsequent transfers between tanks on the rig.

Drilling Program and Well Operations

BlueCrest proposes to drill at each well to bottom-hole depths of approximately 2,100 to 4,900 m (7,000 to 16,000 ft). Drilling will take approximately 30 to 75 days per well. Well testing will take another 7 to 15 days per well. When planned operations are completed, the wells will be plugged and abandoned according to Alaska Oil and Gas Conservation Commission regulations.

Blowout Prevention Program and Equipment

All operating procedures on the rig, whether automated or controlled by company or contractor personnel, are specifically designed to prevent a loss of well control. The primary method of well control utilizes the hydrostatic pressure exerted by a column of drilling mud of sufficient density to prevent an undesired flow of formation fluid into the well bore. In the unlikely event that primary control is lost, surface blowout prevention equipment would be used for secondary control. BlueCrest will use a 5,000-pounds-of-pressure-per-square-inch (psi) blowout prevention stack for shallow wells, and a 10,000- or 15,000-psi blowout prevention stack for drilling deeper wells in higher pressure formations known to exist in Cook Inlet.

Drilling Fluids and Cuttings

Drilling wastes include drilling fluids, known as mud, rock cuttings, and formation waters. Drilling wastes (non-hydrocarbon) will be discharged into the waters of Cook Inlet under the approved Alaska Pollution Discharge Elimination System (APDES) general permit. Hydrocarbon drilling wastes will be delivered to an onshore permitted location for disposal. BlueCrest will follow best management practices to ensure that a sufficient inventory of barite and lost circulation materials are maintained on the drilling vessel to minimize the possibility of a well upset and the likelihood of a release of pollutants to Cook Inlet waters. In accordance with the APDES general permit for discharges of drilling muds and cuttings, BlueCrest will conduct an Environmental Monitoring Study of relevant hydrographic, sediment hydrocarbon, and heavy metal data before, during, and at least 1 year after drilling operations cease.

Non-drilling wastewater will also be discharged into Cook Inlet or delivered to an onshore permitted location for disposal per the approved APDES general permit. Non-drilling wastewater includes deck drainage, sanitary waste, domestic waste, blowout preventer fluid, boiler blowdown, fire control test water, bilge water, non-contact cooling water, and uncontaminated ballast water.

Solid waste (e.g., packaging, domestic trash) will be classified, segregated, and labeled as general, universal, and Resource Conservation and Recovery Act exempt or nonexempt waste. It will be stored in containers at designated accumulation areas until it is packaged and palletized for transport to an approved onshore disposal facility. No hazardous wastes should be generated as a result of this project. However, if any hazardous wastes are generated, they would be temporarily stored in an onboard satellite accumulation area and then transported offsite for disposal at an approved facility.

Dates and Duration of Proposed Activity and Specific Geographical Region

Apache plans to conduct seismic surveys south of Ninilchik from approximately the middle of October 2014 through March or April 2015, during open water periods at slack tides.

SAExploration, Inc.'s seismic surveys in lower Cook Inlet will begin in December 2014 and start in the northern half of their action area to avoid encounters with summering marine mammals near Anchor Point. Completing this work in the lower Cook Inlet is estimated to take 60 to 80 days.

BlueCrest's exploratory drilling at Cosmopolitan State #2 (north of Anchor Point) is expected to begin in November 2014 and conclude in October 2015.

Distribution, Abundance, and Use of Sea Otters in the Area of Specified Activity

Lower Cook Inlet is within the range of the Southcentral stock of the northern

sea otter (Figure 2). The estimated abundance of the Southcentral sea otter stock is approximately 18,000 sea otters. Approximately 6,900 otters from this stock are presumed to use Cook Inlet (USFWS 2014). The approximate range of sea otters within the proposed area of specified activity extends from Ninilchik along the eastern side of Cook Inlet to the southeastern edge of the area near Anchor Point. Sea otters are found within all water depths and distances from shore in the proposed project areas in lower Cook Inlet. During Kenai Peninsula and Lower Cook Inlet sea otter aerial surveys, Bodkin et al. (2003) found that sea otters predominantly use the nearshore areas (≥ 40 m; 131.2 ft) due to increased foraging opportunities (Riedman and Estes 1990; Schneider 1976). However, in waters of Cook Inlet and Bristol Bay further from the nearshore area, numerous otters have been observed rafting together transiting through the area (BlueCrest 2013; Schneider 1976). Sea otters do not regularly occur within the upper Cook Inlet; thus, this area is not addressed in these proposed IHAs.

Within their range, sea otters do not use intertidal areas when void of open water and onshore use is extremely limited. The survey activities that will be conducted in the intertidal areas will occur only when those areas contain residual water (i.e., slack tide) and thus the Service has determined that the onshore and intertidal portions of Apache's and SAE's seismic surveys will not likely interact with, or impact, northern sea otters. Therefore, those seismic activities and related operations are not addressed in these proposed IHAs.

Biological Information for the Southcentral stock of northern sea otters can be found in the Service's Stock Assessment Report (USFWS 2014) (*http://www.fws.gov/alaska/fisheries/mmm/seaotters/reports.htm*).

Potential Impacts of the Activities on Sea Otters

Understanding of the effects of sound from oil and gas exploration and drilling activities (i.e., seismic, drilling, pile driving) on sea otters is important for the health of sea otters and the development of parameters by which sea otter takes can be established and monitored. The three proposed actions from Apache, SAE, and BlueCrest have the potential to disturb sea otters, particularly in protected waters in nearshore habitats, which are used for resting, pup rearing, and foraging.

Acoustic noise disturbance from underwater sound sources will be the primary concern for sea otters. For Apache and SAE, the main acoustic source of disturbance will be the airguns that will be deployed from the source vessels. Other underwater sound sources associated with the seismic surveys that could impact sea otters include the pingers and transponders associated with positioning and locating receiver nodes, and propeller noise from the vessel fleet. For BlueCrest, airborne sound sources include rig towing, noise generated from routine rig activities, and periodic air traffic. Routine boat traffic noise produced by all operators will also generate airborne sound. The Service believes that airborne sound sources will not exceed 160 dB (Level B harassment) and will not affect sea otters (Richardson 1995). Adherence to specified operating conditions for vessels and aircraft will ensure that these airborne sound sources do not take sea otters.

When disturbed by noise, otters may respond behaviorally (e.g., escape response) or physiologically (e.g., increased heart rate, hormonal response; Harms et al. 1997, Tempel and Gutierrez 2003). Either response results in a diversion from one biological activity to another. That diversion may cause stress (Goudie and Jones 2004), and it redirects energy away from fitness-enhancing activities such as feeding and mating (Frid and Dill 2002). Other changes in activities as a result of anthropogenic noise can include: Increased alertness; vigilance; agonistic behavior; escape behavior; temporary or permanent abandonment of an area; weakened reflexes; and lowered learning responses (van Polanen Petel et al. 2006). Chronic stress can lead to loss of immune function, decreased body weight, impaired reproductive function, and abnormal thyroid function.

Despite the importance of understanding the effects of sound on sea otters, very few controlled experiments or field observations have been conducted to address this topic. Those studies that have been conducted have concluded that sea otters are generally quite resistant to the effects of sound, and that change to presence, distribution, or behavior resulting from acoustic stimuli are rare (Ghoul et al. 2012a and b; Reichmuth and Ghoul 2012; Riedman 1984). Additionally, when sea otters have displayed behavioral disturbance to acoustic stimuli, they quickly become habituated and resume normal activity (Ghoul et al. 2012b).

Disturbance From Vessel Traffic and General Operations

Sea otters generally show a high degree of tolerance and habituation to shoreline activities and vessel traffic (Gill, USFWS, Marine Mammals Management, pers. obs.), but disturbance may cause animals to disperse from the local area. Populations of sea otters in Alaska have been known to avoid areas with heavy boat traffic but return to those same areas during seasons with less traffic (Garshelis and Garshelis 1984). Sea otters in Alaska have shown signs of disturbance (escape behaviors) in response to the presence and approach of survey vessels, including: Diving and/or actively swimming away from a boat; hauled-out otters entering the water; and groups of otters disbanding and swimming in multiple different directions (Udevitz et al. 1995). However, sea otters off the California coast showed only mild interest in boats passing within hundreds of meters, and sea otters in California appear to have habituated to boat traffic (Riedman 1983; Curland 1997). Their behavior is suggestive of a dynamic response to disturbance, abandoning areas when disturbed persistently and returning when the disturbance ceased. From the above research it is likely that some degree of disturbance from vessel traffic associated with the proposed actions will occur. Sea otters reacting to vessels they encounter may consume energy and divert time and attention from biologically important behaviors, such as feeding. However, these disturbances are expected to be short term in duration, and this potential short-term displacement is not anticipated to affect the overall fitness of any individual animal. We also anticipate that individual otters will habituate to the presence of project vessels and associated noise. Boat traffic, commercial and recreational, is constant in Cook Inlet. Some sea otters in the area of activity are likely to become habituated to vessel traffic and noise caused by vessels due to the existing continual traffic in the area. The additional vessel activity that will occur related to these three projects is not expected to substantially increase vessel noise or activity in the action area above that which is already occurring.

Sea otter collisions with vessels associated with the proposed project are unlikely. Tugs and barges are slow moving and pose little risk of colliding with otters. Collisions between fast-moving vessels do occur but are infrequent and are usually associated with impaired animals (Gill, USFWS, Marine Mammals Management, pers. comm.). No fast boat use is proposed, and it is unlikely that housing and crew transfer vessels will impact otters.

Vessels proposed for use to transfer housing and crew can produce noises exceeding 190 or 180 dB re 1 μPa when traveling at higher speeds. However, the influence of this sound is limited to a distance of 2 to 4 m (6.6 to 13.1 ft) from the vessel. Adherence to operating conditions will ensure that these vessels do not take sea otters.

Disturbance From Noise

Effects of noise on marine mammals are highly variable and can be categorized as: Tolerance; masking of natural sounds; behavioral disturbance; temporary or permanent hearing impairment; and non-auditory effects, such as female-pup separations (Richardson *et al.* 1995). Whether a specific noise source will cause harm and/or disturbance to a sea otter depends on several factors, including the distance between the animal and the sound source, the sound intensity, background noise levels, the noise frequency (cycles per second; Hz (hertz) or kHz), duration, if the noise is pulsed or continuous, and whether the noise source originates in the aquatic or terrestrial environment. For otters, behavioral reactions may be shown as: Changing durations of surfacing and dives; changing direction and/or speed; reduced/increased vocal activities; changing/cessation of socializing or feeding; visible startle response; avoidance of areas where noise sources are located; and/or flight response (e.g., otters flushing into water from haulouts). The consequences of behavioral modification have the potential to be biologically significant if the change affects growth, survival, and reproduction.

Information regarding the northern sea otter's hearing abilities is limited; however, the closely related southern sea otter (*Enhydra lutris nereis*) has some information showing this subspecies' range of hearing. Reichmuth and Ghoul (2012) tested the aerial (from airborne sound sources) hearing capabilities of one male southern sea otter believed to have typical hearing. The study revealed an upper frequency hearing limit extending to at least 32 kHz and a low frequency limit below 0.125 kHz. These results are generally consistent with comparable data for other carnivores, including terrestrial mustelids. This range is also similar to that of harbor seals (*Phoca vitulina;* Pinnipedia) (0.075 to 30 kHz) (Kastak and Schusterman 1998, Hemilä *et al.* 2006, Southall *et al.* 2007), which suggests pinnipeds may be a good proxy for sea otters. Additionally, sea otters and harbor seals both exhibit amphibious hearing and spend a considerable amount of time above water, where they are not disturbed by airborne sound sources; southern sea otters spend about 80 percent of their time at the sea surface, whereas harbor seals may spend up to 60 percent of their time hauled out of the water (Frost *et al.* 2001).

Riedman (1983) examined changes in the behavior, density, and distribution of southern sea otters at Soberanes Point, California, that were exposed to recorded noises associated with oil and gas activity. The underwater sound sources were played at a level of 110 dB and a frequency range of 50–20,000 Hz and included production platform activity, drillship, helicopter, and semi-submersible sounds. Riedman (1983) also observed the sea otters during seismic airgun shots fired at decreasing distances from the nearshore environment (50, 20, 8, 3.8, 3, 1, and 0.5 nautical miles) at a firing rate of 4 shots per minute and a maximum air volume of 4,070 cubic inches. Riedman (1983) observed no changes in the presence, density, or behavior of sea otters as a result of underwater sounds from recordings or airguns, even at the closest distance of 0.5 nm (<1 km). Otters did, however, display slight reactions to airborne engine noise. Riedman (1983) concluded that seismic activities had no measurable effect on sea otter behavior. The experiment was repeated the following year (Riedman 1984) with the same results.

In another controlled study using prerecorded sounds, Davis et al. (1988) exposed both northern sea otters in Simpson Bay, Alaska, and southern sea otters in Morro Bay, California, to a variety of aerial (airborne) and underwater sounds, including a warble tone, sea otter pup calls, killer whale calls, airhorns, and an underwater acoustic harassment system designed to drive marine mammals away from crude oil spills. The sounds were projected at a variety of frequencies, decibel levels, and intervals. The authors noted that certain acoustic stimuli could cause a startle response and result in dispersal. However, the disturbance effects were limited in range (no responses were observed for otters approximately 100–200 m (328–656 ft) from the source of the stimuli), and habituation to the stimuli was generally very quick (within hours or, at most, 3–4 days).

The National Marine Fisheries Service (NMFS) has developed noise thresholds used to measure injury for pinnipeds (i.e., on Temporary Threshold Shift (TTS) and Permanent Threshold Shift (PTS)). Sea otter specific thresholds have not been determined; however, because of their biological similarities, we assume that noise thresholds developed by NMFS for injury for pinnipeds will be a surrogate for sea otter impacts as well. When PTS occurs, there is physical damage to the sound receptors in the ear. Severe cases can result in total or partial deafness. In other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter 1985).

The noise thresholds established by NMFS for preventing injury to pinnipeds were developed as precautionary estimates of exposures below which physical injury would not occur. There is no empirical evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns (Southall et al. 2007). However, given the possibility that mammals close to an airgun array might incur at least mild TTS in the absence of appropriate mitigation measures, researchers have speculated about the possibility that some individuals occurring very close to airguns might incur PTS (e.g., Richardson et al. 1995).

Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS. By means of preventing the onset of TTS, it is highly unlikely that marine mammals could receive sounds strong enough (and over a sufficient duration) to cause permanent hearing impairment. These thresholds estimate that take in the form of PTS may occur when pinnipeds are exposed to sound pressure levels above 190 dB (Level A take; injury). NMFS thresholds indicate that take in the form of TTS can occur at levels above 160 dB (Level B; harassment) (all decibel (dB) levels given herein are re: 1 μPa RMS). Until specific sea otter thresholds are developed for both Level A and Level B harassment and injury, the use of NMFS thresholds for pinnipeds as a proxy for otters remains the best available information. NMFS's thresholds are further described and justified in NOAA (2005), NOAA (2006), NOAA (2008), and Southall et al. (2007) for our analysis.

In conclusion, using information available for other marine mammals as a surrogate, and taking into consideration what is known about sea otters, the Service has set the received sound level under water of 160 dB re 1 μPa (rms) as a threshold for Level B take by disturbance for sea otters for this proposed IHA (Ghoul and Reichmuth 2012a and b, McShane et al. 1995, NOAA 2005, Riedman 1983, Richardson

et al. 1995). Exposure to unmitigated noise levels in the water greater than 160 dB re 1 μPa (rms) will be considered by the Service as potentially injurious Level A take; and levels above 190 dB re 1 μPa (rms) are defined as the Level A take threshold for sea otters. Level A take will not be authorized and will be avoided through mitigation measures.

Seismic Operations

Sound reception studies by Ghoul and Reichmuth (2012b) determined that sea otters effectively hear between 125 Hz and 32 kHz, or above the range where most seismic energy is produced. Thus, sea otters appear to have limited hearing of seismic airguns (especially compared to humans with effective hearing down to 20 Hz). To the extent that sea otters can detect seismic noise, the potential effects of Apache's and SAE's proposed activities are described below.

Apache's seismic survey has the potential to affect sea otters with sound generated by the seismic airguns, active acoustic sources for surveys (i.e., pingers), and vessel transit. The seismic airguns used by Apache are two 2,400-cubic-inch airgun arrays. The acoustic source level of the 2,400-cubic-inch airgun arrays was predicted using the JASCO Applied Science air array source model. Two general survey environment scenarios were considered for the modeling study: A nearshore (from shore out to 18 km (11 mi) offshore) and a channel survey scenario (more than 18 km (11 mi) from shore). Results from this study can be found in Apache's EA. Mitigation measures are in place to reduce the acoustic impacts to sea otters. Vessel-based Protected Species Observers will monitor sea otters during all daylight airgun operations. To prevent Level A take of sea otters, airgun activity will shut down if a sea otter approaches within 500 m (1,640 ft) from the source vessel.

The seismic airguns that will be used during SAE's Cook Inlet operation have the potential to acoustically injure marine mammals at close proximity. As no sound levels have been effectively measured to establish the threshold where injury caused by an acoustic source exists, the 190-dB criterion for seals applies most closely to sea otters given their more similar natural history than compared to cetaceans. To avoid exposing marine mammals to these received noise levels, safety zones will be established based on the zones of impact (the area ensonified by a specific sound level) for the 440- (221.1 dB source), 880- (226.86 dB source) and 1,760- (236.55 dB source) cubic-inch airgun arrays. Based on the transmission losses empirically measured for similar arrays by Collins et al. (2007) in Cook Inlet (18.4 Log (R) + 0.00188R), the distances to the 190- and 180-dB isopleths (safety zone radii) are described in Table 2. Qualified protected species observers will be deployed aboard the seismic vessels to monitor the safety zones (see SAE's EA for a more detailed description) and alert operations to shut down at the approach of a marine mammal to these safety zones, (including a sea otter to the 190-dB safety zone 315-m radius (1,033 ft)).

Warner and McCrodan (2011) modeled the distances to the 190- and 180-dB isopleths from the same vessels to be used in this project while they were towing a 2,400-cubic-inch array in Cook Inlet. The maximum safety radii were 360 m (1,181 ft; 190 dB) and 1,070 m (3,510 ft; 180 dB), which correspond well to the numbers in Table 2 given that the 2,400-cubic-inch array is larger than the 1,760-cubic-inch array. Sound source verification of the 1,760-cubic-inch array will be conducted soon after operations begin, and the safety radii adjusted as needed.

TABLE 2—SAFETY ZONE RADII FOR PINNIPEDS (190 dB) AND CETACEANS (180 dB) FOR EACH AIRGUN ARRAY

Array (cubic inch)	Source level (dB)	190 dB radius (m)	180 dB radius (m)
440	221.1	49	165
880	226.86	99	327
1,760	236.55	315	948

While the pingers and transponders to be used by SAE will be used to relocate nodes, their generated source sound levels (185 to 193 dB) exceed Level A criteria, but only at a very limited radius distance of 0 to 6 m (0 to 20 ft). Marine mammal observers and operators will, however, ensure that no marine mammals are in the immediate vicinity before deploying active pingers and transponders.

Both the transceiver and the transponders for Apache's and SAE's projects produce noise levels just above the most sensitive hearing range of sea otters (0.125 to 32 kHz) (Ghoul and Reichmuth 2012a and b). Further, given the low acoustical output of the transceiver and the transponders, the range of acoustical harassment to marine mammals is measured to be approximately 100 m (328 ft), which is significantly less than the output from the airgun arrays. In addition, the noise produced is not loud enough to reach injury levels in sea otters beyond 9 m (30 ft). Sea otters are likely to respond to transceiver and transponder transmission similar to airgun pulses, but only when underwater and very close (a few meters away) to the sources, which is very unlikely to occur given the boat activity involved.

Acoustic noise can also result from explosive charges used for seismic activity. Marine mammals close to underwater detonations of high explosives can be killed or severely injured, where the auditory organs are especially susceptible to injury (Ketten *et al.* 1993, Ketten 1995). No underwater detonations are expected to occur in the action area, although Apache plans to use explosives in the nearshore intertidal area during slack tides. No sea otters are expected to occur in this intertidal area, and the Service does not anticipate sea otters to interact with this portion of Apache's activity.

Seismic operations could also cause behavioral effects on sea otters. For example, severe disturbance from seismic noise or activities could cause female-pup separations, male territory abandonment, male territory shifts and conflicts between territories, breakup of rafts of nonbreeding males, and or movement by individual otters out of nearshore areas into deeper water. These types of displacement events, if they occurred, could have repercussions on breeding success and/or survival due to increased risk of predation or other adverse conditions. However, because sea otters spend relatively large amounts of time above the water surface compared to other marine mammals, sea otters' potential exposure to the underwater acoustic stimuli, such as those associated with seismic surveys (Greene and Richardson 1988), may be lower than that of other marine mammal species (Richardson et al. 2011). As previously stated, studies have not

shown these kinds of dramatic responses when otters were exposed to seismic operations, and, therefore, we have no reason to believe that otters will exhibit any of these reactions during these activities.

The Service has never documented a stranding related to sound exposure for sea otters in Cook Inlet (Gill, USFWS Marine Mammals Management, pers. comm.). More directly, no strandings or sea otters in distress were observed during the 2D test survey conducted by Apache in March 2011 or reported by Cook Inlet inhabitants. To date, there is no evidence that serious injury, death, or stranding of sea otters can occur from exposure to airgun pulses, even in the case of large airgun arrays. As a result, the Service does not expect any sea otters to incur serious injury (Level A harassment) or mortality in Cook Inlet or strand as a result of the proposed seismic survey.

Drilling Operations

For BlueCrest's drilling operation, two project components have the potential to disturb sea otters: Driving the conductor pipe at each well prior to drilling; and vertical seismic profiling (VSP) operations that may occur at the completion of each well drilling.

As described in BlueCrest's application, the conductor pipe driving and VSP are impulsive noise activities. Here the Level B disturbance exposure to sound levels greater than 160 dB re 1 μPa-m (rms) applies, and ''take'' is addressed relative to noise levels exceeding 160 dB, above which disturbance can occur until 190 dB, after which potential injury can occur.

Conductor Pipe Driving

A conductor pipe is a relatively short, large-diameter pipe driven into the sediment prior to the drilling of oil wells. This section of tubing serves to support the initial sedimentary part of the well, preventing the looser surface layer from collapsing and obstructing the wellbore. The pipe also facilitates the return of cuttings from the drill head. Conductor pipes are usually installed using drilling, pile driving, or a combination of these techniques. In offshore wells, the conductor pipe is also used as a foundation for the wellhead. BlueCrest proposes to drive approximately 90 m (300 ft) of 76.2-cm (30-inch) conductor pipe at Cosmopolitan #2 (and any associated delineation wells) prior to drilling using a Delmar D62–22 impact hammer. This hammer has impact weight of 6,200 kg (13,640 pounds) and reaches maximum impact energy of 224 kilonewton-m (165,215 foot-pounds) at a drop height of 3.6 m (12 ft).

Blackwell (2005) measured the noise produced by a Delmar D62–22 driving 91.4-cm (36-inch) steel pipe in Cook Inlet and found sound pressure levels to exceed 190 dB re 1μPa-m (rms) at about 60 m (200 ft), 180 dB re 1μPa-m (rms) at about 250 m (820 ft), and 160 dB re 1μPa-m (rms) at just less than 1.9 km (1.2 mi). Each conductor pipe driving event is expected to last 1 to 3 days, although actual noise generation (pounding) would occur only intermittently during this period. It is anticipated that sea otters will move away from any sound disturbance caused by the pipe driving or become habituated by it.

Vertical Seismic Profiling (VSP)

Once a well is drilled, accurate followup seismic data can be collected by placing a receiver at known depths in the borehole and shooting a seismic airgun at the surface near the borehole. This gathered data provides not only high-resolution images of the geological layers penetrated by the borehole, called vertical seismic profiling (VSP), but it can also be used to accurately correlate (or correct) the original surface seismic data.

BlueCrest intends to conduct VSP operations at the end of drilling each well using an array of airguns with total volumes of between 9.83 and 14.42 liters (600 and 880 cubic inches). Each VSP operation is expected to last less than 1 or 2 days. Assuming a 1-m source level of 227 dB re 1μPa (based on manufacturer's specifications) for a 14.42-liter (880-cubic-inch) array and using Collins et al.'s (2007) transmission loss model for the Cook Inlet (18.4 Log(R)—0.00188R), the 190-dB radius (Level A take threshold for pinnipeds and surrogate for sea otters) from source was estimated at 100 m (330 ft), and the 160-dB radius (Level B disturbance take threshold for all sea otters) at 2.46 km (1.53 mi). These were the initial injury and safety zones established for monitoring during a VSP operation conducted by Buccaneer at Cosmopolitan State #1 during July 2013. Illingworth and Rodkin (2013) measured the underwater noise levels associated with the July 2013 VSP operation using an 11.8-liter (720-cubic-inch) array and found the noise exceeding 160 dB re 1 μPa (rms) extended out 2.47 km (1.56 mi) or virtually identical to the modeled distance. The measured radius to the 190-dB level was 75 m (246 ft) and to the 180-dB level was 240 m (787 ft). The best fit model for the empirical data was 227 –19.75 log(R)—0.0R (Illingworth and Rodkin 2013).

Exploratory Drilling and Standard Operation

The jack-up drilling rig, *Endeavour,* is not expected to impact otters. Lattice-legged jack-up drill rigs are relatively quiet because the lattice legs limit transfer of noise generated from the drilling table to the water (Richardson et al. 1995, Spence et al. 2007). Further, the drilling platform and other noise-generating equipment are located above the ocean surface, so there is very little surface contact with the water compared to drill ships and semi-submersible drill rigs. For example, the *Spartan 151,* the only other jack-up drilling rig operating in the Cook Inlet, was hydro-acoustically measured by Marine Acoustics, Inc. (2011) while operating in 2011. The survey results showed that continuous noise levels exceeding 120 dB re 1μPa extended out only 50 m (164 ft), and that this noise was largely associated with the diesel engines used as power generators. The *Endeavour* was hydro-acoustically tested during drilling activities by Illingworth and Rodkin (2013) in May 2013, while the rig was operating at Cosmopolitan State #1. The results from the sound source verification indicated that noise generated from drilling or generators were below ambient noise. The generators used on the *Endeavour* are mounted on pedestals specifically to reduce noise transfer through the infrastructure, and they are enclosed in an insulated engine room. In addition, the submersed deep-well pumps that cool the generators and charge the fire-suppression system also generate noise levels exceeding 120 dB re 1μPa out a distance of approximately 300 m (984 ft). However, the Service does not anticipate that this level of noise will impact sea otters. Thus, neither actual drilling operations nor running generators on the *Endeavour* drill rig generates underwater noise levels exceeding 120 dB re 1μPa.

For this IHA analysis, acoustical injury to sea otters can occur if received noise levels exceed 190 dB re 1 μPa (rms). This is classified as a Level A take (injury), which is not authorized by IHAs. The towing, drilling, and pump operations to be used during BlueCrest's program do not have the potential to acoustically injure marine mammals (see Section 6 of the BlueCrest application). Therefore, no shutdown safety zones will be established for these activities. However, the conductor pipe driving and VSP operations do generate impulsive noises exceeding 190 dB re 1 μPa (rms). Based on the estimated distances to the 190-dB isopleth addressed above, a 60-m (200-foot)

shutdown safety zone will be established and monitored during conductor pipe driving (at least until the noise levels are empirically verified), while a 75-m (246-ft) shutdown safety zone will be monitored during VSP operations. Sea otters may be disturbed at noise levels between 160 dB to 190 dB, where disturbance can occur (Level B harassment) out to approximately 0.75 km (2.5 mi). If these takes occur, they are likely to result in nothing more than short-term changes in behavior.

Estimated Take of Sea Otters

As described earlier, the Service anticipates that incidental take will occur during Cook Inlet oil and gas activities conducted by Apache, SAE, and BlueCrest. In the sections below, we estimate take by harassment of the numbers of sea otters from the Southcentral stock that are likely to be affected during the proposed activities.

Sound Levels

As noted earlier, there is a lack of information available regarding the impacts of noise disturbance on sea otters. However, by using information available for other marine mammals as a surrogate, and taking into consideration what is known about sea otters, the Service has set the received sound level under water of 160 dB re 1 μPa (rms) as a threshold for Level B take by disturbance for sea otters for this proposed IHA (Ghoul and Reichmuth 2012a and b, McShane et al. 1995, NOAA 2005, Riedman 1983, Richardson et al. 1995). Exposure to unmitigated noise levels in the water greater than 190 dB re 1 μPa (rms) will be considered by the Service as potentially injurious Level A take threshold for sea otters. Level A take will not be authorized and will be avoided through mitigation measures, such as ramp-down or shut-down procedures when sea otters are observed in a designated mitigation zone.

Population Size Estimate

The current estimate for the Southcentral Alaska stock of northern sea otters is 18,297 (USFWS 2014). Aerial surveys in Kachemak Bay in 2002, 2007, and 2008, indicated that the sea otter population is increasing. The rate of increase for the Cook Inlet portion of the population is unknown because surveys have not been repeated; however, it is assumed to be similar to that in Kachemak Bay. The estimated sea otter population for Cook Inlet was, therefore, adjusted to allow for population growth between 2002 and 2014 at the same rate as Kachemak Bay. This rate was calculated by estimating least squares linear and exponential trends for the 2002, 2007, 2008, and 2012 population estimates. The linear model was selected based on model fit ($R\text{-squared}_{linear}$ 0.98 vs. $R\text{-squared}_{exp}$ 0.92). This model predicted an annual population growth of 495 animals and an estimated 2014 population size of 6,904 animals for Cook Inlet.

Density

The density of sea otters has been reported as either otters per area or otters per length of linear coastline. Because sea otters primarily forage nearshore in shallow water and rely on coastal habitat, we calculated density per linear kilometer of coastline. The length of the 2002 USGS survey coastline from which the Cook Inlet population was estimated was 539.98 km. Using the estimated 2014 population size and applying that to the length of coastline; the Service calculated a density of 12.79 (95 percent CI 6.5–19.08) otters per kilometer of coastline (6,904/539.98 = 12.79). For the offshore activities proposed by Blue Crest, we used observational data from 2013 to estimate the number of sea otters per day within the area that could be observed from the drill rig. The estimate was based on the number of sea otters observed from the *Endeavor* drilling rig during Buccaneer gas exploration activities in 2013 by marine mammal monitors in the same area and during the same proposed timeframe (BlueCrest 2013).

Estimation of Take for Seismic Programs

Incidental take of otters is estimated as the number of otters that may be exposed to Level B harassment during the entire duration of the project, as it has been described. No lethal take is expected, and all take will be by harassment; therefore, individual animals may be taken multiple times over the course of the project. The total estimated number of takes is the number of otters multiplied by the number of times each animal could potentially be taken. It does not account for animals that may remove themselves from the impact area and thus avoid repeated exposures. It also does not subtract animals that are harassed early during the project but then become habituated to seismic sound at levels below injury thresholds. The Service has no information on which to base such adjustments to the calculation of total number of takes. However, larger estimates of the total number of takes are expected for projects with a larger impact area or longer duration. For these reasons, the estimated total number of takes should be considered as a useful metric for comparison rather than a precise measure of the project's overall potential for impact. Our determination of small numbers is based on the number of sea otters taken and not the number of times a sea otter may be taken.

Method

The northern end of the seismic project areas extends beyond the range of the sea otter. To determine the most northern range for sea otters, all observations in middle and upper Cook Inlet proper (as defined by areas north of Point Pogibshi and east of Chinitna Point) reported during sea otter surveys or as incidental sightings during Steller's eider (Larned 2004, 2006) and beluga whale surveys (Rugh et al. 2006, Goetz et al. 2012) were compiled. To reduce the influence of extralimital sightings, a minimum convex polygon containing 95 percent of sea otter sightings was created, excluding 5 percent of sightings with the greatest distance to the centroid. A buffer area was expanded outside the project areas to show the farthest distances at which the two seismic surveys could ensonify areas in the range of sea otters at the 160-dB level. The buffer areas differed for Apache and SAE based on the size of their gun arrays. Apache proposed to use a 2,400-cubic-inch array, while SAE proposed to use a 1,760-cubic-inch array. The estimated buffer for Apache's project area was 9.5 km (5.9 mi), while SAE's buffer area was 4.75 km (2.9 mi).

Apache

The length of coastline that intersected the Apache project area and the corresponding buffer were measured to estimate the length of coastline along which otters are expected to occur and may be affected by the seismic surveys. Applying the estimated density of 12.79 otters per km of coastline to the length of the coastline (27.5 km; 17.1 mi) yields a final estimate of approximately 351 otters that could be taken ($12.79 \times 27.5 = 351$; estimated 95 percent CI from 178 to 524 otters).

In addition, we estimated the total number of incidental takes of otters based on Apache's description of survey time that would be spent in each quadrant of the survey area. We calculated that approximately 19.25 percent of these surveys would occur within the probable range of sea otters in Cook Inlet and within 9.5 km (5.9 mi) of the coast, where sea otters are most likely to be found and could be affected by the seismic surveys. The estimated total time spent in these areas was approximately 3.27 survey days.

Allowing one take per otter, per survey day, yields 1,150 takes (3.27 × 351 = 1,150; estimated 95 percent confidence interval [CI] 584–1,715).

SAExploration, Inc.

The length of coastline that intersected the SAE project area, but did not overlap with Apache seismic surveys, was buffered 4.75 km (2.95 mi) based on farthest distances at which seismic surveys are predicted to ensonify an area using a model developed for Cook Inlet by Collins et al. (2007). SAE's estimated total length of Cook Inlet coastline where sea otters may be affected by the seismic surveys was 55.72 km (34.6 mi). Applying the estimated density of 12.79 otters per km of coastline to the length of the coastline for SAE's longer length of coastline than Apache's yields an estimated 713 otters that could possibly be taken (55.72 × 12.79 = 712.5; estimated 95 percent CI from 362 to 1,064 otters).

We further estimated the total number of takes for the duration of SAE's project based on SAE's description of surveys. For this project we calculated approximately 31.6 percent of SAE's surveys would occur in the sea otter range in Cook Inlet and within 4.75 km (2.95 mi) of the coast. We estimated the total time the seismic project would spend in the calculated otter range was approximately 10.1 survey days. Due to the slow rate of vessel speed and the planned layout of survey transects, the length of the coastline affected each day would be less than the total length of coastline within the SAE project area. To calculate the maximum number of otters that could be taken per day, we calculated the maximum length of impacted shoreline per day, times density of otters per linear km of shoreline. The maximum shoreline impact in a day would occur from a 12-km (7.46-mi) transect parallel to shore. With buffers to allow for sound attenuation, a total of 21.5 km (13.4 mi) maximum could be affected each day (4.75 + 12 + 4.75 = 21.5 km). An adjustment was made for the length of the coastline ensonified each day by SAE because, unlike the Apache seismic project, the SAE survey area is large enough that seismic ensonification would not affect the entire section of coastline within the SAE project area and would ensonify only a portion of the coastline at one time. For SAE, allowing one take per otter per survey day and an estimated density of 12.76 otters per km, the maximum estimated daily take of otters is 275 (21.5 × 12.79 = 275). We estimated that the total number of takes after 10.1 survey days would be 2,778 takes (10.1 × 275 = 2,778; estimated 95 percent CI 1,412–4,145) would occur.

Estimation of Take for the Drilling Program

BlueCrest

The Service determined that the BlueCrest activities most likely to result in the take of sea otters, as defined under the MMPA, are conductor pipe driving (CPD) and vertical seismic profiling (VSP). These activities will generate noise levels in the water that may cause short-term, temporary, nonlethal, but biologically significant changes in behavior to sea otters that the Service considers to be Level B take by disturbance under the MMPA. Other proposed activities, such as rig towing, noise generated from routine rig activities, routine boat traffic, and periodic air traffic were considered to have a limited potential for disturbance leading to Level B take. Adherence to specified operating conditions will ensure that take does not occur. The Service made these determinations, in part, based on information provided in the application materials provided by BlueCrest, including the application's Marine Mammal Monitoring and Mitigation Plan.

The proposed BlueCrest activities, previously discussed in detail, will primarily occur in a limited area around the *Endeavor* jack-up drilling rig at the Cosmopolitan #1 site. The Service used the number of sea otters observed from the *Endeavor* drilling rig during Buccaneer gas exploration activities in 2013 in the same area and during the same proposed timeframe as a basis for estimating the maximum number of otters likely to be in the area per day (BlueCrest 2013).

In 2013, an area of 210 m^2 (2260 ft^2) on the surface of the water around the deep water pump was intensively observed for the presence of sea otters (BlueCrest 2013). Given the high probability of detection of sea otters in such a small area in direct proximity to the rig, the Service used these observations as the basis for estimating the presence of sea otters in the area for the 2014 operations. From May to August (103 observation days), an average of 2.54 sea otters were observed in the 210-m^2 (2,260-ft^2) area around the deepwater pump.

The Service estimated the number of sea otters per day in a Zone of Impact (ZOI) by multiplying the number of sea otters observed per day in the deepwater pump observation area by the relative size of the 160 dB re 1 μPa (rms) ZOI of the CPD and VSP. For example, the VSP ZOI is 19.2 km^2 or 91.42 times larger than the deepwater pump observation area: The otters per day is 91.42 × 2.54 = 232.23. We multiplied the estimated number of sea otters per day by the number of days the activity is proposed to occur and then, because the otters are rafting through rather than foraging, we adjusted the number of otters potentially exposed to these noise levels to account for the time sea otters spend on the surface, which is approximately 70 percent and based on observational surveys (Bodkin et al 2004, Estes et al 1986, Riedman and Estes 1990, Walker et al. 2008, Yeates et al. 2007). The estimate of potential Level A takes of sea otters is zero.

Conductor Pipe Driving

BlueCrest will use a Delmar D62–22 diesel impact hammer to drive the 76.2-centimeter (30-inch) conductor pipe that was acoustically measured earlier in Cook Inlet (Blackwell 2005). These measurements found that noise in the water of approximately 190 dB re 1 μPa extended to about 60 meters (200 feet) from the source, and noise in the water of approximately 180 dB re 1 μPa extended to about 250 meters (820 feet) from the source. Noise in the water of approximately 160 dB re 1 μPa extended to just less than 1.9 kilometers (1.2 miles). Based on this, the associated Zone of Impact (ZOI) (area ensonified by noise >160 dB re 1 μPa) is 11.3 square kilometers (4.4 square miles) for the CPD estimate.

Vertical Seismic Profiling

Noise levels during Buccaneer VSP operations at the Cosmopolitan #1 site were measured in July 2013 (Illingworth and Rodkin 2013). Measurements indicated that the 11.8-liter (720-cubic-inch) airgun array used during the operation produced noise levels exceeding 160 dB re 1 μPa out to a distance of approximately 2,470 meters (8,100 feet). Based on these results, the associated ZOI for this VSP estimate is 19.2 square kilometers (7.4 square miles).

TABLE 3—ESTIMATED NUMBER OF LEVEL B TAKES OF SEA OTTERS FROM THE SOUTHCENTRAL STOCK BY PROPOSED BLUECREST ACTIVITIES

BlueCrest activity	Activity days	Activity ZOI (Km^2)	Estimated sea otters per day	Estimated sea otters exposed	Sea otter surface time adjustment (70%)
CPD	3	11.3	136.68	410	123
VSP	3	19.2	232.23	697	209
Total	6	30.5	368.91	1107	332

This method for estimating take differs from that used for activities proposed by Apache and SAE. Due to the relatively stationary nature of the BlueCrest activities, as well as the distance from shore, the Service determined that utilizing an estimated density of sea otters based on linear coastline, or based on density of otters in the overall area, did not provide a reasonable estimate of potential takes for the BlueCrest project. Both of those methods provided what the Service considered to be unreasonably low estimates of take. The method the Service adopted for this proposed IHA is most likely an overestimate of take.

In conclusion, for the two seismic operations occurring in Cook Inlet, Apache is estimated to have approximately 1,150 takes of 351 otters, while SAE is estimated to have approximately 2,778 takes of 713 otters; there may be some overlap of impact areas. In addition, Level B take from the BlueCrest activities is estimated to be 332. The total number of otters affected is likely to be 351 + 713 + 332 = 1,396 or less. The Service believes all anticipated takes would be nonlethal harassment involving short-term, temporary changes in behavior (Level B harassment). The Service considers 1,396 sea otters, approximately 8 percent of the 18,297 sea otters estimated to occur in the Southcentral Alaska stock (USFWS 2014), to be a small number. See Table 4 for summary of takes.

TABLE 4—SUMMARY OF ESTIMATED TAKES

Applicants	Number of takes (Level B harassment)	Number of sea otters taken
Apache	1,150	351
BlueCrest	2,778	713
SAE	332	332
Total	4,260	1,396

Potential Effects on Sea Otter Habitat

As described in greater detail previously, the oil and gas exploration activities associated with these proposed IHAs are two seismic surveys and one drilling operation. The primary potential impacts to sea otters, and other marine species, are associated with high-energy impulsive sound levels produced by these activities. However, other potential impacts are also possible to the surrounding habitat from physical disturbance, discharges, or an oil spill.

Since sea otters typically inhabit nearshore marine areas, shoreline length is a readily available metric that can be used to quantify sea otter habitat. The total length of shoreline within the range of the Southcentral Alaska stock of northern sea otters is approximately 2,575 km (1,600 mi), of which 540 km (335.5 mi) are located within Cook Inlet. Of that, the total length of shoreline for the proposed activities is approximately 84 km (52.2 mi), which is a small percentage of the total shoreline habitat available to the Southcentral sea otter stock.

Potential Impacts to Prey

In addition to the disturbances outlined above to sea otter habitat from noise, these activities could affect sea otter habitat in the form of impacts to prey species. The primary prey species for sea otters are sea urchins, abalone, clams, mussels, crabs, and squid (Tinker and Estes 1999). When preferential prey are scarce, otters will also eat kelp crabs, clams, turban snails, octopuses, barnacles, sea stars, scallops, rock oysters, fat innkeeper worms, and chitons (Riedman and Estes 1990). Thus, the nearshore habitats where sea otters forage and support these species are of utmost importance to Cook Inlet sea otters.

From Seismic Surveys

Little research has been conducted on the effects of seismic operations on invertebrates (Normandeau Associates, Inc. 2012). Christian et al. (2003) concluded that there were no obvious effects from seismic signals on crab behavior and no significant effects on the health of adult crabs. Pearson et al. (1994) had previously found no effects of seismic signals upon crab larvae for exposures as close as 1 m (3.3 ft) from the array, or for mean sound pressure as high as 231 dB re 1 μPa. Squid and other invertebrate species have complex statocysts (Nixon and Young 2003) that resemble the otolith organs of fish that may allow them to detect sounds (Budelmann 1992). Normandeau Associates, Inc. (2012) concluded that invertebrates are sensitive to local water movements and to low-frequency particle accelerations generated by sources in their close vicinity.

From Drill Rig Presence

The potential direct habitat impact by the BlueCrest drilling operation is limited to the actual drill-rig footprint defined as the area occupied and enclosed by the drill-rig legs. The jack-up rig will temporarily disturb up to two offshore locations in upper Cook Inlet, where the wells are proposed to be drilled. Bottom disturbance would occur in the area where the three legs of the rig would be set down and where the actual well would be drilled. The jack-up drill rig footprint would occupy three steel piles at 14 m (46 ft) diameter. The well casing would be a 76-cm (30-in) diameter pipe extending from the

seafloor to the rig floor. The casing would be in place only during drilling activities at each potential well location. The total area of disturbance was calculated by BlueCrest as 0.54 acres. The collective 2-acre footprint of the wells represents a very small fraction of the entire Cook Inlet. Potential damage to the Cook Inlet benthic community will be limited to the actual surface area of the three spud cans (1,585 square ft each or 4,755 square ft total) that form the ''foot'' of each leg. Given the high tidal energy at the well site locations, drilling footprints are not expected to support benthic communities equivalent to shallow lower energy sites found in nearshore waters. The presence of the drill rig is not expected to result in any direct loss of sea otter habitat.

From Drilling Discharges

The drill rig will operate under an APDES general permit for wastewater discharges. This permit authorizes discharges from oil and gas extraction facilities engaged in exploration under the Offshore and Coastal Subcategories of the Oil and Gas Extraction Point Source Category (40 CFR part 435). Twelve effluents are authorized for discharge into Cook Inlet once discharge limits set by the Alaska Department of Environmental Conservation have been met. The authorized discharges include drilling fluids and drill cuttings, deck drainage, sanitary waste, domestic waste, blowout preventer fluid, boiler blowdown, fire control system test water, uncontaminated ballast water, bilge water, excess cement slurry, mud cuttings cement at sea floor, and completion fluids. The drill rig will also be authorized under the Environmental Protection Agency's (EPA's) Vessel General Permit for deck washdown and runoff, gray water, and gray water mixed with sewage discharges. Drilling wastes include drilling fluids, known as mud, rock cuttings, and formation waters. Drilling wastes (non-hydrocarbon) will be discharged to the Cook Inlet under the approved APDES general permit.

Drilling wastes (hydrocarbon) will be delivered to an onshore permitted location for disposal. BlueCrest will conduct an Environmental Monitoring Study of relevant hydrographic, sediment hydrocarbon, and heavy metal data from surveys conducted before and during drilling mud disposal and at least 1 year after drilling operations cease in accordance with the APDES general permit for discharges of drilling muds and cuttings.

Non-drilling wastewater includes deck drainage, sanitary waste, domestic waste, blowout preventer fluid, boiler blowdown, fire control test water, bilge water, noncontact cooling water, and uncontaminated ballast water. Non-drilling wastewater will be discharged into Cook Inlet under the approved APDES general permit or delivered to an onshore permitted location for disposal. Mud cuttings will be constantly tested. Hydrocarbon-contaminated muds will be hauled offsite. Solid waste (e.g., packaging, domestic trash) will be classified, segregated, and labeled as general, universal, and Resource Conservation and Recovery Act exempt or nonexempt waste. Solid waste will be stored in containers at designated accumulation areas until it can be packaged and transported to an approved onshore disposal facility. Hazardous wastes should not be generated as a result of this project. However, if any hazardous wastes are generated, they will be temporarily stored in an onboard satellite accumulation area and then transported offsite for disposal at an approved facility.

Discharging drill cuttings or other liquid waste streams generated by the drilling rig—even in permitted amounts—could potentially affect marine mammal habitat. Toxins could persist in the water column, which could have an impact on marine mammal prey species. However, despite a considerable amount of investment in research on exposures of marine mammals to organochlorines or other toxins, no marine mammal deaths in the wild can be conclusively linked to the direct exposure to such substances (O'Shea 1999).

Drilling muds and cuttings discharged to the seafloor can lead to localized increased turbidity and increase in background concentrations of barium and occasionally other metals in sediments and may affect lower trophic organisms. Drilling muds are composed primarily of bentonite (clay), and the toxicity is, therefore, low. Heavy metals in the mud may be absorbed by benthic organisms, but studies have shown that heavy metals do not bio-magnify in marine food webs (Neff et al. 1989). Effects on benthic communities are nearly always restricted to a zone within about 100 to 150 m (328 to 492 ft) of the discharge, where cuttings accumulations are greatest. Discharges and drill cuttings could impact fish by displacing them from the affected area. No water quality impacts are anticipated from permitted discharges that would negatively affect habitat for Cook Inlet sea otters.

Potential Impacts From an Oil Spill or Unpermitted Discharge

The probability of an oil spill from the proposed activities is low. Potential sources would be a release from a support vessel or an incident associated with BlueCrest's exploratory drilling (while the target of that drilling is natural gas, there is still a remote possibility of an oil spill). An oil spill or unpermitted discharge is an illegal act; IHAs do not authorize takes of sea otters caused by illegal or unpermitted activities.

If an oil spill did occur, the most likely impact upon sea otters would be mortality due to exposure to and ingestion of spilled oil. Also, contamination of sea otter habitat, their invertebrate prey, and prey habitat would most likely result in a range of impacts ranging from sublethal to lethal, depending on a wide variety of factors. Spill response activities are not likely to disturb the prey items of sea otters sufficiently to cause more than minor effects. Spill response activities could cause sea otters to avoid contaminated habitat that is being cleaned.

Based on the preceding discussion of potential types and likelihood of impacts to sea otters, their prey, and habitat, the Service anticipates that the proposed activities are not likely to cause more than negligible, short-term, and temporary impacts to a small number of sea otters and to a small fraction of sea otter habitat.

Potential Impacts on Subsistence Needs

According to the IHA applications, Apache, SAE, and BlueCrest have contacted all potentially affected subsistence communities, and the communities have expressed no concerns regarding the potential impacts upon the availability of sea otters for subsistence use (see proposed EAs at *http://alaska.fws.gov/fisheries/mmm/itr.htm*). Data from the Service's Marine Mammal Marking, Tagging, and Reporting Program (MTRP) indicates that the mean reported annual subsistence take from 2009 through 2013 from communities that reported harvest of sea otters in or near the proposed project areas was 124 animals (USFWS MTRP unpub. data). The number of sea otters harvested for subsistence in Cook Inlet is relatively small compared to other areas. In addition, meetings with affected communities held by the companies that discussed these proposed activities did not reveal concern that these activities would impact sea otters. Therefore, the Service anticipates no impacts on subsistence uses of sea otters

will result from any of the proposed activities or from the issuance of the proposed IHAs.

Proposed Mitigation Measures

Holders of an IHA must use methods and conduct activities in a manner that minimizes to the greatest extent practicable adverse impacts on sea otters, their habitat, and on the availability of sea otters for subsistence uses. Adaptive management approaches, such as temporal or spatial limitations in response to the presence of sea otters in a particular place or time or the occurrence of sea otters engaged in a particularly sensitive activity (such as feeding), must be used to avoid or minimize interactions with sea otters, and subsistence users of these resources.

We require holders of an IHA to cooperate with the Service and other designated Federal, State, and local agencies to monitor the impacts of oil and gas exploration activities on sea otters. The following mitigation measures are proposed to be included in the individual IHAs.

Operating conditions for operational and support vessels:

- Operational and support vessels must be staffed with trained and qualified observers to alert crew of the presence of sea otters and initiate adaptive mitigation responses.
- Vessel operators must take every precaution to avoid harassment to sea otters when a vessel is operating near these animals.
- Vessels must reduce speed and maintain a distance of 100 m (328 ft) from all sea otters when practicable.
- Vessels may not be operated in such a way as to separate members of a group of sea otters from other members of the group.
- When weather conditions require, such as when visibility drops, vessels should adjust speed accordingly to avoid the likelihood of injury to sea otters.
- All vessels must avoid areas of active or anticipated subsistence hunting for sea otters as determined through community consultations.
- We may require a monitor on the site of the activity or onboard drillships, drill rigs, support vessels, aircraft, or vehicles to monitor the impacts of an activity on sea otters.

Operating conditions for aircraft:

- Operators of support aircraft must, at all times, conduct their activities at the maximum distance possible from sea otters.
- Fixed-wing aircraft must operate at an altitude no lower than 91 m (300 ft) in the vicinity of sea otters.
- Rotary winged aircraft (helicopters) must operate at an altitude no lower than 305 m (1,000 ft) in the vicinity of sea otters.
- When weather conditions do not safely allow the required minimum altitudes stipulated above, such as during severe storms or when cloud cover is low, aircraft may be operated at lower altitudes.
- When aircraft are operated at altitudes below the required minimum altitudes, the operator must avoid known sea otter locations and should take precautions to avoid flying directly over these areas.
- Aircraft routes must be planned to minimize any potential conflict with active or anticipated sea otter subsistence hunting activity as determined through community consultations.

Offshore seismic surveys:

Any offshore exploration activity expected to include the production of pulsed underwater sounds with sound source levels ≥160 dB re 1 μPa will be required to establish and monitor acoustic exclusion and disturbance zones and implement adaptive mitigation measures as follows:

- Monitor zones. Establish and monitor with trained and qualified observers an acoustically verified disturbance zone surrounding seismic source arrays where the received level will be ≥ 180 dB re 1 μPa and an acoustically verified exclusion zone surrounding seismic source arrays where the received level will be ≥ 190 dB re 1 μPa.
- Ramp-up procedures. For all seismic surveys, including airgun testing, use the following ramp-up procedures to allow marine mammals to depart the disturbance zone before seismic surveying begins.
  - ○ Visually monitor the disturbance zone and adjacent waters for sea otters for at least 30 minutes before initiating ramp-up procedures. If no sea otters are detected, you may initiate ramp-up procedures. Do not initiate ramp-up procedures at night or when you cannot visually monitor the disturbance zone for marine mammals.
  - ○ Initiate ramp-up procedures by firing a single airgun. The preferred airgun to begin with should be the smallest airgun, in terms of energy output (dB) and volume (cubic inches).
  - ○ Continue ramp-up by gradually activating additional airguns over a period of at least 20 minutes, but no longer than 40 minutes, until the desired operating level of the airgun array is obtained.
- Power down/Shutdown. Immediately power down or shutdown the seismic source array and/or other acoustic sources whenever one or more sea otters are sighted close to or within the area delineated by the 180 dB re 1 μPa disturbance zone. If the power down operation cannot reduce the received sound pressure level to 160 dB re 1 μPa or less, the operator must immediately shut down the seismic airgun array and/or other acoustic sources.
- Emergency shutdown. If observations are made or credible reports are received that one or more sea otters are within the area of the seismic survey and are indicating acute distress, such as any injury due to seismic noise, the seismic airgun array will be immediately shutdown and the Service contacted. The airgun array will not be restarted until review and approval by the Service.

Monitoring and Reporting Requirements

Monitoring Requirements

Holders of an IHA will be required to:

- Maintain trained and qualified onsite observers to carry out monitoring programs for sea otters necessary for initiating adaptive mitigation responses.
- Place trained and qualified observers on board all operational and support vessels to alert crew of the presence of sea otters to initiate adaptive mitigation responses and to carry out specified monitoring activities identified in the marine mammal monitoring and mitigation plan necessary to evaluate the impact of authorized activities on sea otters and the subsistence use of sea otters.
- Cooperate with the Service and other designated Federal, State, and local agencies to monitor the impacts of oil and gas exploration activities on sea otters.

Reporting Requirements

Holders of an IHA must keep the Service informed on the progress of authorized activities by:

- Notifying the Service at least 48 hours prior to the onset of activities.
- Providing weekly progress reports of authorized activities noting any significant changes in operating state and or location.
- Notifying the Service within 48 hours of ending activity.

Weekly Observation Reports

Holders of an IHA must report, on a weekly basis, observations of sea otters during project activities. Information within the observation report will include, but is not limited to:

- Date, time, and location of each sighting.

• Number, sex, and age (if determinable).
• Observer name, company name, vessel name or aircraft number, letter of authorization number, and contact information.
• Weather, visibility, and sea conditions at the time of observation.
• Estimated distance from the animal or group when initially sighted, at closest approach, and end of the encounter.
• Industry activity at time of sighting and throughout the encounter. If a seismic survey, record the estimated ensonification zone where animals are observed.
• Behavior of animals at initial sighting, any change in behavior during the observation period, and distance from Industry activity associated with those behavioral changes.
• Detailed description of the encounter.
• Duration of the encounter.
• Duration of any behavioral response (e.g., diving, swimming, splashing, etc.).
• Mitigation actions taken.

Notification of Incident Report

Holders of an IHA must report to the Service within 24 hours:
• Any incidental lethal take or injury of a sea otter due to project activities; and
• Observations of sea otters within prescribed disturbance mitigation monitoring zones.

After-Action Monitoring Reports

The results of monitoring efforts identified in the marine mammal monitoring and mitigation plan must be submitted to the Service for review within 90 days of the expiration date of the IHA.

The report must include, but is not limited to, the following information:
• A summary of monitoring effort including: Total hours, areas/distances, and distribution of sea otters through the project area of each rig, vessel, and aircraft.
• Analysis of factors affecting the visibility and detectability of sea otters by specified monitoring.
• Analysis of the distribution, abundance, and behavior of sea otter sightings in relation to date, location, sea conditions, and operational state.
• Estimates of take based on the number of animals encountered/km of vessel and aircraft operations by behavioral response (no response, moved away, dove, etc.), and animals encountered per day by behavioral response for stationary drilling operations.
• Raw data in electronic format (i.e., Excel spreadsheet) as specified by the Service in consultation with Industry representatives.
• Sighting rates of marine mammals during periods with and without airgun activities (and other variables that could affect detectability).
• Initial sighting distances versus airgun activity state (firing, powered down, or shut-down).
• Closest point of approach versus airgun activity state.
• Observed behaviors and types of movements versus airgun activity state.
• Numbers of sightings/individuals seen versus airgun activity state.

Findings

The Service proposes the following findings regarding this action:

Small Numbers Determination and Estimated Take by Incidental Harassment

For small take analysis, the statute and legislative history do not expressly require a specific type of numerical analysis, leaving the determination of ''small'' to the agency's discretion. Factors considered in our small numbers determination include the following:

(1) *The number of northern sea otters inhabiting the proposed impact area is small relative to the size of the northern sea otter population.* The total number of sea otters that could potentially be taken by harassment in association with the proposed activity is 1,396, which is less than ten percent of the estimated population size of 18,297 (USFWS 2014).

(2) *The area where the proposed activities would occur is a relatively small fraction of the available habitat of the Southcentral Alaska stock of northern sea otters.* Since sea otters typically inhabit nearshore marine areas, shoreline length is a readily available metric that can be used to quantify sea otter habitat. The total length of shoreline within the range of the Southcentral Alaska stock of northern sea otters is approximately 2,575 km (1,600 mi), of which 540 km (335.5 mi) are located within Cook Inlet. Of that, the total length of shoreline for the proposed activities is approximately 84 km (52.2 mi), which is a small percentage of the total shoreline habitat available to the Southcentral sea otter stock. Any potential impacts to prey caused by the proposed activities would occur in the limited area of the shoreline habitat.

(3) *Monitoring requirements and mitigation measures are expected to limit the number of incidental takes.* Level A harassment (harassment that has the potential to injure sea otters) is not authorized. If a sea otter was observed within or approaching the 180 dB re 1 mPa exposure area of the various gun arrays, avoidance measures would be taken, such as decreasing the speed of the vessel and/or implementing a power down or shutdown of the airguns. All nearshore vessel operations associated with marine geophone placements would be monitored by onsite observers. Power-up and ramp-up procedures would prevent Level A harassment and limit the number of incidental takes by Level B harassment by affording time for sea otters to leave the area. Monitoring and mitigation measures are thus expected to prevent any Level A harassment and to minimize Level B harassment. Further, monitoring and reporting of sea otter activity in proximity to activities will allow the Service to reanalyze and possibly refine and adjust future take estimates as exploration activities continue in sea otter habitat into the future.

The mitigation measures outlined above are intended to minimize the number of sea otters that may be disturbed by the proposed activity. Any impacts on individuals are expected to be limited to Level B harassment and to be of short-term duration. No take by injury or death is anticipated or authorized. Should the Service determine, based on the monitoring and reporting to be conducted throughout the survey activities, that the effects are greater than anticipated, the authorization may be modified, suspended, or revoked.

Negligible Impact

The Service finds that any incidental ''take by harassment'' that may result from this proposed seismic survey cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival, and would, therefore, have no more than a negligible impact on the stock. In making this finding, we considered the best available scientific information, including: (1) The biological and behavioral characteristics of the species; (2) the most recent information on distribution and abundance of sea otters within the area of the proposed activity; (3) the potential sources of short-term disturbance during the proposed activity; and (4) the potential response of sea otters to this short-term disturbance. In addition, we conducted a thorough review of material supplied by the applicants, information from other operators in Cook Inlet, our files and datasets, data acquired from NMFS, and published reference materials. We

also consulted with other sea otter experts in the Cook Inlet area, including the Service and NMFS researchers and local residents.

Limited evidence (Riedman 1983, 1984) suggests that sea otters are not particularly sensitive to or adversely affected by sound. Responses of sea otters to disturbance would most likely be diving and/or swimming away from the sound source, which may entail the temporary, but not sustained, interruption of foraging, breeding, resting, or other natural behaviors. Thus, although 1,396 sea otters (approximately 8 percent of the population) are estimated to be potentially taken (i.e., potentially disturbed) by Level B harassment by means of exposure to sound levels of 160dB re 1 mPa or greater but less than 190 dB for the duration of the project, we do not expect that this type of harassment would result in adverse effects on the species or stock through effects on annual rates of recruitment or survival.

Our finding of negligible impact applies to incidental take associated with the proposed activities as mitigated through this authorization process. These authorizations establish monitoring and reporting requirements to evaluate the potential impacts of the proposed activities, as well as mitigation measures designed to minimize interactions with, and impacts to, sea otters.

Impact on Subsistence

We find that the anticipated harassment caused by the proposed activities would not have an unmitigable adverse impact on the availability of sea otters for taking for subsistence uses. In making this finding, we considered the timing and location of the proposed activities and the timing and location of subsistence harvest activities and patterns, as reported through the MTRP, in the proposed project area, as well as the applicants' consultation with potentially affected subsistence communities. More information can be found on our Web site at *http://www.fws.gov/alaska/fisheries/mmm/iha.htm*.

The Service finds that the proposed activities will have a negligible impact on small numbers of sea otters in Southcentral Alaska and will not have an unmitigable adverse impact on the availability of the stock for subsistence uses. Further, we have prescribed permissible methods of take, means to have the least practicable impact on the stock and its habitat, and monitoring requirements.

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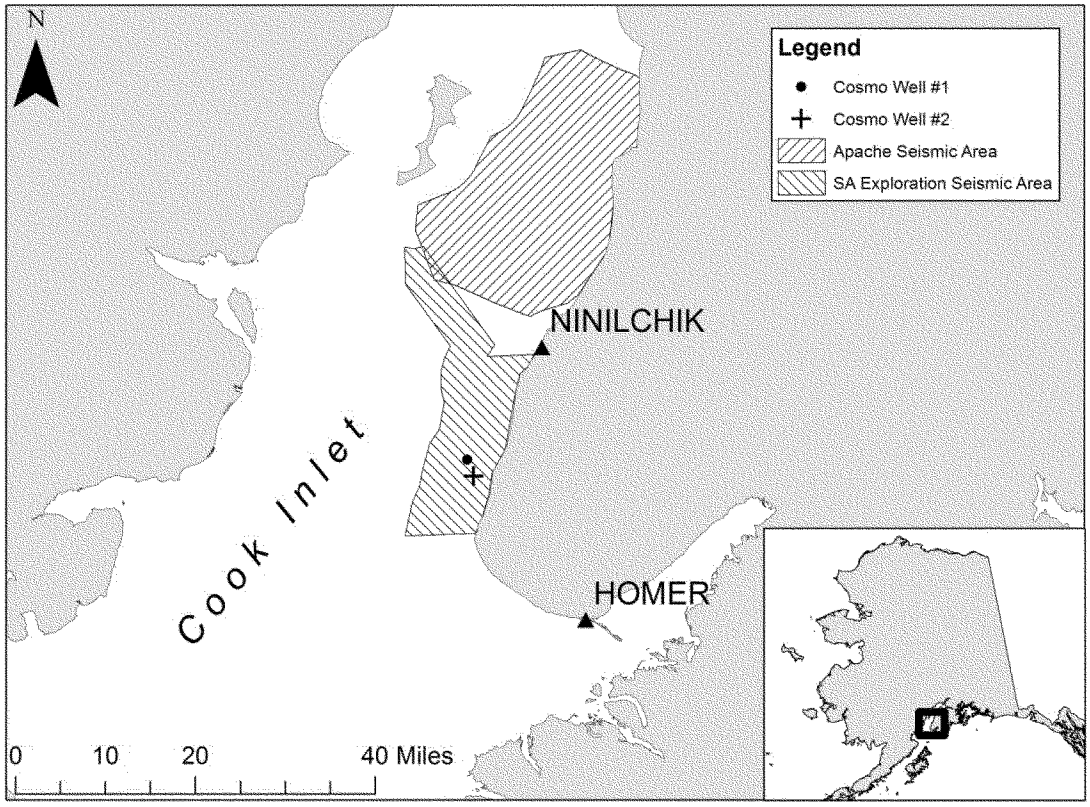

Figure 1. The area of activity for the Apache and SAE seismic surveys, as well as the drill sites for the BlueCrest exploratory drilling program, lower Cook Inlet, Alaska.

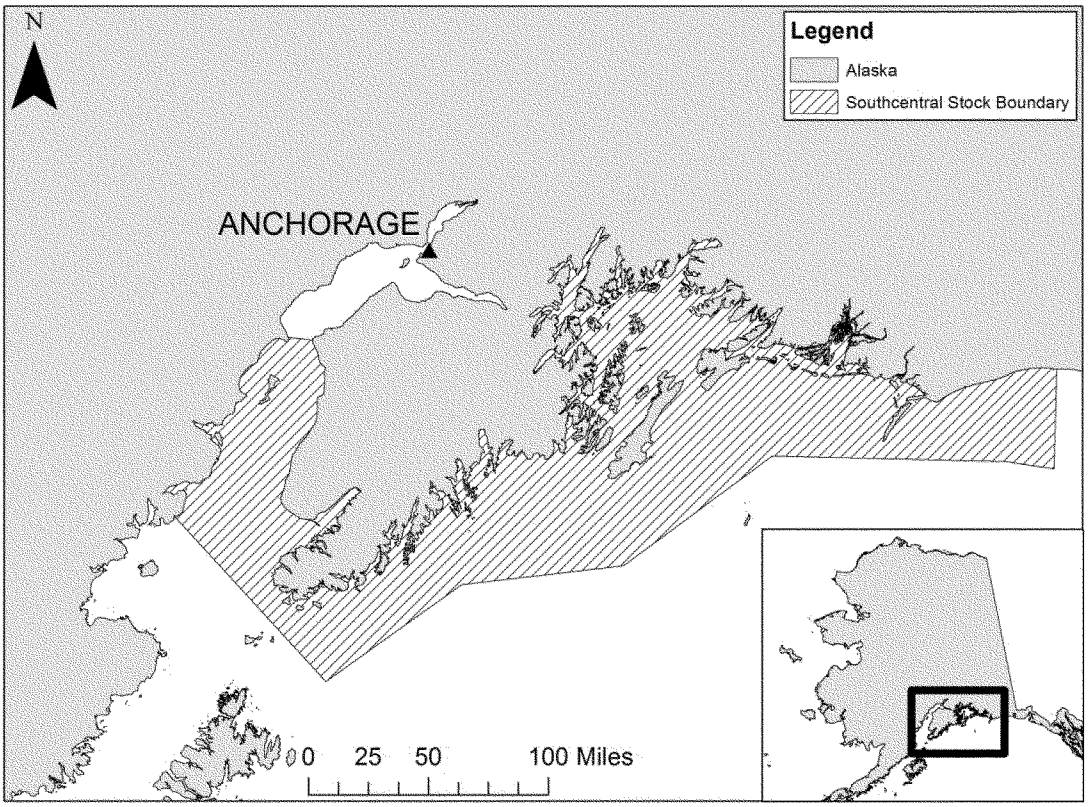

Figure 2. Approximate boundaries for the Southcentral northern sea otter stock.

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Required Determinations

National Environmental Policy Act (NEPA)

We have prepared Environmental Assessments (EA) in accordance with the NEPA (42 U.S.C. 4321 et seq.). We have concluded that approval and issuance of these authorizations for the nonlethal, incidental, unintentional take by Level B harassment of small numbers of northern sea otters (*Enhydra lutris kenyoni*) in the Southcentral Alaska stock during oil and gas industry exploration activities in the lower Cook Inlet of Alaska would not significantly affect the quality of the human environment, and that the preparation of Environmental Impact Statements on these actions is not required by section 102(2) of the NEPA or its implementing regulations. For a copy of the EAs, go to *http://www.regulations.gov* and search for Docket No. FWS–R7–ES–2014–0031, go to *http://www.fws.gov/alaska/fisheries/mmm/iha.htm,* or contact the individual identified above in **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act (ESA)

The proposed activities will occur entirely within the range of the Southcentral Alaska stock of the northern sea otter, which is not listed as threatened or endangered under the ESA.

Government-to-Government Relations With Native American Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, Department of the Interior Secretarial Order 3225 of January 19, 2001 [Endangered Species Act and Subsistence Uses in Alaska (Supplement to Secretarial Order 3206)], Department of the Interior Secretarial Order 3317 of December 1, 2011 (Tribal Consultation and Policy), Department of the Interior Memorandum of January 18, 2001 (Alaska Government-to-Government Policy), the Department of the Interior's manual at 512 DM 2, and the Native American Policy of the U.S. Fish and Wildlife Service, June 28, 1994, we readily acknowledge our responsibility to communicate and work directly on a Government to Government basis with federally recognized Alaska Natives Tribes in developing programs for healthy ecosystems, to seek their full and meaningful participation in evaluating and addressing conservation concerns for listed species, to remain sensitive to Alaska Native culture, and to make information available to Alaska Natives.

We have evaluated possible effects on federally recognized Alaska Native Tribes. Through the IHA process identified in the MMPA, Industry presents a communication process, culminating in a Plan of Cooperation (POC), if warranted, with the Native communities most likely to be affected and engages these communities in numerous informational meetings.

Through various interactions and partnerships, we have determined that the issuance of these IHAs is appropriate. We are open to discussing ways to continually improve our coordination and information exchange, including through the IHA/POC process, as may be requested by Tribes or other Native groups.

Proposed Authorization

The Service proposes to issue BlueCrest Energy, Inc., Apache Alaska Corporation, and SAExploration, Inc., LLC, individual IHAs for the nonlethal, incidental, unintentional take by Level B harassment of small numbers of northern sea otters (*Enhydra lutris kenyoni*) in the Southcentral Alaska stock during industry exploration activities in the lower Cook Inlet of Alaska, as described in this document and in their individual applications. We neither anticipate nor propose authorization for take by injury or death. The final IHAs would be effective for 1 year after the date of issuance. Authorization for incidental take beyond the period specified in the final IHA will require application for a new IHA.

The final IHA for each applicant will also incorporate the mitigation, monitoring, and reporting requirements described in this proposal. The applicants will be expected and required to implement and fully comply with those requirements. These IHAs will not authorize the intentional take of northern sea otters, nor take by injury or death.

If the nature or level of activity changes or exceeds that described in this proposal and in the individual applications for IHAs, or the nature or level of take exceeds that projected in this proposal, the Service will reevaluate its findings. The Secretary may modify, suspend, or revoke these authorizations if the findings are not accurate or the mitigation, monitoring, and reporting requirements described herein are not being met.

Request for Public Comments

The Service requests interested persons to submit comments and information concerning these proposed IHAs. Consistent with section 101(a)(5)(D)(iii) of the MMPA, we are opening the comment period on this proposed authorization for 30 days (see **DATES**).

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 1, 2014.

Geoffrey L. Haskett,

Regional Director, Alaska Region.

[FR Doc. 2014–20618 Filed 8–28–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5A211.IA000413]

Renewal of Agency Information Collection for Federal Acknowledgment of Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Assistant Secretary—Indian Affairs is submitting to the Office of Management and Budget (OMB) approval for the collection of information for Federal Acknowledgment of Tribes. This information collection is currently authorized by OMB Control Number 1076–0104, which expires August 31, 2014.

DATES: Interested persons are invited to submit comments on or before September 29, 2014.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to R. Lee Fleming, Director, Office of Federal Acknowledgment, Assistant Secretary—Indian Affairs, 1951 Constitution Avenue NW., MS–34B SIB, Washington, DC 20240; facsimile: (202) 219–3008; email: *Lee.Fleming@bia.gov.*

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, (202) 513–7650.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Assistant Secretary—Indian Affairs held listening sessions in July and August 2013 and consultation sessions in July and August 2014 to receive feedback on ways to improve the Department's process for acknowledging an Indian tribe, as set forth in 25 CFR 83. The Assistant Secretary is currently in the process of revising the process for acknowledging an Indian tribe; however, this request for extension for this information collection request does not include the suggestions and feedback from the listening sessions and consultations. To not stall or delay potential petitioners that may want to submit this information, the Assistant Secretary—Indian Affairs is requesting an extension of the approval for the information collection conducted under 25 CFR 83.

The information collection is conducted under 25 CFR 83, to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States. Federal recognition makes the group eligible for benefits from the Federal Government. Approval for this collection expires August 31, 2014. Three forms are used as part of this information collection.

II. Request for Comments

The Assistant Secretary—Indian Affairs requests your comments on this collection concerning: (a) The necessity of this information collection 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 the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0104.

Title: Documented Petitions for Federal Acknowledgment as an Indian Tribe, 25 CFR 83.

Brief Description of Collection: Submission of this information allows Office of Federal Acknowledgment (OFA) to review applications for the Federal acknowledgment of a group as an Indian tribe. The acknowledgment

regulations at 25 CFR 83 contain seven criteria that unrecognized groups seeking Federal acknowledgment as Indian tribes must demonstrate that they meet. Information collected from petitioning groups under these regulations provides anthropological, genealogical and historical data used by the Assistant Secretary—Indian Affairs to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States. Respondents are not required to retain copies of the information submitted to OFA but will probably maintain copies for their own use; therefore, there is no recordkeeping requirement included in this information collection.

Type of Review: Extension without change of currently approved collection.

Respondents: Groups petitioning for Federal acknowledgment as Indian tribes.

Number of Respondents: 10 per year, on average.

Number of Responses: 10 per year, on average.

Frequency of Response: Once.

Estimated Time per Response: 2,075 hours.

Estimated Total Annual Hour Burden: 20,750 hours.

Dated: August 26, 2014.

Philip Brinkley,

Assistant Director for Information Resources.

[FR Doc. 2014–20679 Filed 8–28–14; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO260000 L10600000 XQ0000]

Call for Nominations for the Wild Horse and Burro Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit public nominations for three positions on the Wild Horse and Burro Advisory Board (Board). The Board provides advice concerning the management, protection, and control of wild free-roaming horses and burros on public lands administered by the Department of the Interior, through the Bureau of Land Management (BLM), and the Department of Agriculture, through the U.S. Forest Service.

DATES: Nominations must be post marked or submitted to the address listed below no later than October 14, 2014.

ADDRESSES: All mail sent via the U.S. Postal Service should be sent as follows: Division of Wild Horses and Burros, U. S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134 LM, Attn: Sarah Bohl, WO 260, Washington, DC 20240. All mail and packages that are sent via FedEx or UPS should be addressed as follows: Division of Wild Horses and Burros, U. S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134 LM, Attn: Sarah Bohl, Washington, DC 20003. You may also send a fax to Sarah Bohl at 202–912–7182, or email her at *stbohl@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah Bohl, Wild Horse and Burro Program Specialist, 202–912–7263. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Members of the Board serve without compensation. However, while away from their homes or regular places of business, Board and subcommittee members engaged in Board or subcommittee business, approved by the Designated Federal Official (DFO), may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under Section 5703 of Title 5 of the United States Code. Nominations for a term of 3 years are needed to represent the following categories of interest:

Wild Horse and Burro Advocacy

Veterinary Medicine (Equine Science)

Public Interest (with special knowledge about protection of wild horses and burros, management of wildlife, animal husbandry, or natural resource management). The Board will meet one to four times annually. The DFO may call additional meetings in connection with special needs for advice. Individuals may nominate themselves or others. Any individual or organization may nominate one or more persons to serve on the Board. Nominations will not be accepted without a complete resume. The following information must accompany all nominations for the individual to be considered for a position:

1. The position(s) for which the individual wishes to be considered;
2. The individual's first, middle, and last name;
3. Business address and phone number;
4. Home address and phone number;
5. Email address;
6. Present occupation/title and employer;
7. Education: (colleges, degrees, major field of study);
8. Career Highlights: Significant related experience, civic and professional activities, elected offices (include prior advisory committee experience or career achievements related to the interest to be represented). Attach additional pages, if necessary;
9. Qualifications: Education, training, and experience that qualify the individual to serve on the Board;
10. Experience or knowledge of wild horse and burro management;
11. Experience or knowledge of horses or burros (Equine health, training, and management);
12. Experience in working with disparate groups to achieve collaborative solutions (e.g., civic organizations, planning commissions, school boards, etc.);
13. Identification of any BLM permits, leases, or licenses held by the individual or his or her employer;
14. Indication of whether the individual is a federally registered lobbyist; and
15. Explanation of interest in serving on the Board.

At least one letter of reference sent from special interests or organizations the individual may represent, including, but not limited to, business associates, friends, co-workers, local, State, and/or Federal government representatives, or members of Congress should be included along with any other information that is relevant to the individual's qualifications.

As appropriate, certain Board members may be appointed as special government employees. Special government employees serve on the Board without compensation, and are subject to financial disclosure requirements in the Ethics in Government Act and 5 CFR part 2634. Nominations are to be sent to the address listed under **ADDRESSES** above.

Privacy Act Statement: The authority to request this information is contained in 5 U.S.C. 301, the Federal Advisory Committee Act (FACA), and 43 CFR part 1784. The appointment officer uses this information to determine education, training, and experience related to possible service on a BLM advisory council. If you are appointed as an advisor, the information will be retained by the appointing official for as long as you serve. Otherwise, it will be destroyed 2 years after termination of

your membership or returned (if requested) following announcement of the Board's appointments. Submittal of this information is voluntary. However, failure to complete any or all items will inhibit fair evaluation of your qualifications, and could result in you not receiving full consideration for appointment.

Membership Selection: Individuals shall qualify to serve on the Board because of their education, training, or experience that enables them to give informed and objective advice regarding the interest they represent. They should demonstrate experience or knowledge of the area of their expertise and a commitment to collaborate in seeking solutions to resource management issues. The Board is structured to provide fair membership and balance, both geographic and interest specific, in terms of the functions to be performed and points of view to be represented. Members are selected with the objective of providing representative counsel and advice about public land and resource planning. No person is to be denied an opportunity to serve because of race, age, sex, religion, or national origin. The Obama Administration prohibits individuals who are currently federally registered lobbyists to serve on all FACA and non-FACA boards, committees or councils. Pursuant to Section 7 of the Wild Free-Roaming Horses and Burros Act, members of the Board cannot be employed by either Federal or State governments.

Authority: 43 CFR 1784.4–1.

Edwin L. Roberson,

Assistant Director, Resources Planning.

[FR Doc. 2014–20624 Filed 8–28–14; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD030000–L12320000–DA0000]

Notice of Intent To Establish a Campground Fee on Public Land in Carbon County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM), Rawlins Field Office, Rawlins, Wyoming, intends to establish an overnight camping fee at Corral Creek Campground within the North Platte River Special Recreation Management Area (SRMA).

DATES: Comments on the proposed fee changes must be received or postmarked by November 28, 2014 and include a legible full name and address. Effective February 25, 2015, the BLM will initiate fee collection at Corral Creek Campground, unless the BLM publishes a **Federal Register** notice to the contrary. Comments received after the close of the comment period or delivered to an address other than the one listed in this notice may not be considered or included in the administrative record for the proposed fee.

ADDRESSES: Documents may be reviewed at the Rawlins Field Office, 1300 North Third Street, P.O. Box 2407, Rawlins, WY 82301–2407. Written comments may be mailed or delivered to the same address; faxed to 307–328–4224; or emailed to *BLM_WY_Corral_Creek@blm.gov* with ''Corral Creek Fee Proposal'' referenced in the subject line.

FOR FURTHER INFORMATION CONTACT: John Russell, Project Manager, at the address above or phone (307) 328–4252. The business plan and information concerning the proposed fee schedule are available at *www.blm.gov/wy/st/en/info/NEPA/documents/rfo/n_platte_ramp.html.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact John Russell during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The planning area for the 5,060-acre North Platte River Recreation Area Management Plan (Plan) includes parcels of public land within the SRMA boundary from the Prospect Creek confluence to Seminoe Reservoir covering 110 river miles. Approximately 10 percent of the surface area is public land with the remainder predominantly private and State lands. The Corral Creek Campground is within the SRMA approximately 33 miles northeast of the Encampment, Wyoming, and is a popular recreation site for both day-use and overnight visits. The Federal Lands Recreation Enhancement Act (REA), 16 U.S.C. 6801–6814, authorizes the Secretary of the Interior to establish, modify, charge and collect recreation fees at specified categories of Federal recreation lands and waters. The REA also contains specific provisions addressing public involvement when establishing recreation fees. The authority of the Secretary to carry out these provisions expires 11 years after December 8, 2005 (16 U.S.C. 6809 amended). The public involvement provisions of the REA include a requirement that Recreation Resource Advisory Committees or councils be given opportunities to make recommendations regarding the establishment of recreation fees. In Wyoming, the Recreation Action Team (REACT) fulfills the public involvement requirements of the REA. REACT is comprised of State and Federal land management agencies that meet regularly to discuss issues of interest to recreationists in the State. REACT also reviews all fee increase proposals on all State and Federal Government sites in Wyoming. The Corral Creek Campground qualifies as a site where visitors can be charged an Expanded Amenity Fee in accordance with REA criteria at 43 U.S.C. 6802(g)(2). The BLM completed the North Platte River Recreation Area Management Plan and Environmental Assessment Decision Record on September 24, 2013, and fulfilled REA requirements, involved the public, and gathered input on the fee proposal and alternatives.

The Plan addresses the following: (1) Visitor use density; (2) River access issues and the establishment of a new campground; (3) Pursuit of a campground fee and improvements; (4) Special Recreation Permit allocations and limits; and (5) Resource impacts caused by peak visitor use on public lands along the North Platte River. Mitigation and reclamation for approved projects in the Plan have been designed to positively benefit social and environmental conditions. The BLM has already analyzed the potential impacts of implementing a campground fee, and considered necessary mitigations in the North Platte River Recreation Area Management Plan and Environmental Assessment. Therefore, establishment of the campground fee would be an administrative action implementing the Sept. 24, 2013 Decision Record.

In accordance with BLM policy, the Rawlins Field Office has prepared a business plan that explains the fee collection process for the Corral Creek Campground and how the fees would be used. The proposed fee structure includes the implementation of a $10 fee for each overnight stay per campsite at the campground. No fees would be charged for extra vehicles. New fees would be used to supplement the appropriated recreation maintenance and operations budget and diversify funding for watershed restoration, habitat, soils, environmental interpretation/education and other projects which would benefit the Corral Creek Recreation Site. Within the SRMA, the BLM has charged Expanded Amenity fees of $10 for overnight

camping per campsite at Bennett Peak and Encampment River campgrounds. A day-use fee is not being charged on BLM-administered recreation sites within the SRMA.

A fee collection station, including envelopes and a fee tube, would be located at the trailhead and day-use parking area adjacent to an existing interpretive kiosk that would display the fee schedule and supplementary rules. The fee receipt must be prominently displayed at each occupied site. Those holding the America the Beautiful—The National Parks and Federal Recreational Lands Pass (i.e., the Interagency Annual Pass, Interagency Senior Pass, Interagency Access Pass and Interagency Volunteer Pass), the National Parks Pass with golden eagle hologram and the Golden Eagle, Golden Age or Golden Access passports would be entitled to a fee reduction. The pass type and number would be required to be written on the fee envelope.

The fee schedule and business plan are available at the Rawlins Field Office. Public comments submitted for this fee proposal, including names and street addresses of respondents, will be available for public review in their entirety after the 90-day comment period closes at the Rawlins Field Office during regular business hours, 7:45 a.m.–4:30 p.m., Monday through Friday, except for holidays.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The proposal of an overnight camping fee at Corral Creek Campground was analyzed in the 2013 Plan Environmental Assessment (EA) (DOI–BLM–WY–030–2013–0094–EA). This EA included development of recreational infrastructure to meet current BLM fee site standards and proposed the pursuit of a fee program at Corral Creek Campground.

Authority: 16 U.S.C. 6803(b).

Buddy Green,

Acting State Director, Wyoming.

[FR Doc. 2014–20631 Filed 8–28–14; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–EQD–SSB–16553; PPWONRADE3, PPMRSNR1Y.NM000]

Proposed Information Collection; Comment Request: Programmatic Review and Clearance Process for NPS-Sponsored Public Surveys

AGENCY: National Park Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: We (National Park Service) are asking the Office of Management and Budget (OMB) to approve the Information Collection Request (ICR) described below. The National Park Service (NPS) is requesting renewal of a currently approved collection (OMB Control Number 1024–0224). This Programmatic Review and Clearance Process for NPS-Sponsored Public Surveys simplifies and streamlines the information collection requests to OMB in a manner that allows the NPS to submit and request up to five times as many requests per year as we would through the regular submission route. To comply with the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to comment on this ICR. A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that your comments on this ICR are considered, OMB must receive them on or before September 29, 2014.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, via email to *OIRA_Submission@omb.eop.gov* or fax at 202–395–5806; and identify your submission as 1024–0224. Please also send a copy of your comments to Phadrea Ponds, Information Collection Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–0224 in the subject line.

FOR FURTHER INFORMATION CONTACT: Phadrea Ponds, Information Collection Review Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Information Collection 1024–0224 in the subject line. You may also access this ICR at *www.reginfo.gov.*

I. Abstract

The National Park Service (NPS) is requesting a one year extension for the Programmatic Review and Clearance Process for NPS-Sponsored Public Surveys (OMB Control Number 1024–0224). The request to extend the current expiration date (August 31, 2014) for one year is for the purpose of revising the current Pool of Known Questions that serves as a primary component of this process. This request is also based upon requests from human dimensions and natural resource professionals that we update the current list of questions and topic areas that are more than 20 years old. This extension is needed to work collaboratively with other researchers in this field to increase the Pool of Known Questions usability as an effective tool in this process. During the extension we will continue to submit collections for FY15 (based upon the currently approved documents) and we will also host a series of workshops to facilitate the revision of the topic areas and questions.

II. Data

OMB Control Number: 1024–0224.

Title: Programmatic Review and Clearance Process for NPS-Sponsored Public Surveys.

Type of Request: Renewal.

Affected Public: General public; individual households.

Respondent Obligation: Voluntary.

Frequency of Collection: One time.

Estimated Number of Annual Responses: 53,500.

Estimated Annual Burden Hours: 17,080 hours.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'': None.

III. Request for Comments

On May 27, 2014, we published a **Federal Register** notice (79 FR 30162) announcing that we would submit this ICR to OMB for approval. Public comments were solicited for 60 days ending July 28, 2014. We did not receive any public comments in response to that notice. In addition, individuals who had served as principal investigators of NPS-sponsored public surveys in FY 2012–13 were informed that the 60-day **Federal Register** notice was published. However, we requested that several social scientists and natural resource researchers provide a review of the Pool of Known Questions. Several of the reviewers suggested that it is time to

revisit the entire list of questions because ''many are considered to be outdated or underused'' and ''there are other topics areas that should be included (e.g., interpretation and education)''. Based on these comments we are requesting an extension of this collection to consider the recommendations to update the Pool of Known Questions.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: August 25, 2014.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2014–20619 Filed 8–28–14; 8:45 am]

BILLING CODE 4310–EH–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CR–16552; PPWOCRADI0, PCU00RP14.R50000]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Procedures for State, Tribal, and Local Government Historic Preservation Programs

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on August 31, 2014. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before September 29, 2014.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB—OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 1849 C Street NW. (2601), Washington, DC 20240 (mail); or *madonna_baucum@nps.gov* (email). Please include ''1024–0038'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Renaud at *John_Renaud@nps.gov* (email) or at (202) 371–1961 (fax). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1024–0038.

Title: Procedures for State, Tribal, and Local Government Historic Preservation Programs, 36 CFR 61.

Service Form Number(s): None.

Type of Request: Revision of a currently approved collection.

Description of Respondents: State, tribal, and local governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually or on occasion.

Activity	Annual number of responses	Completion time per response (hours)	Total annual burden hours
Local Government Certification Application/Agreement	40	39.75	1,590
Certified Local Government Monitoring	1,860	7.25	13,485
Certified Local Government Evaluations	465	12.00	5,580
Baseline Questionnaire for CLGs	250	6.00	1,500
Annual Achievements Report for CLGs	1,000	2.00	2,000
State Inventory Maintenance	26,904	.25	6,726
State Technical Assistance to Federal Agencies (Review & Compliance)	25,370	.25	6,343
Statewide Historic Preservation Plan	14	797.00	11,158
State Program Review	15	90.00	1,350
State Cumulative Products Table	89	10.00	890
State Organization Chart and Staffing Summary	30	2.00	60
State Anticipated Activities List	30	5.75	173
State Project Notification	59	1.50	89
State Final Project Report	59	1.00	59
State Project/Activity Database Report	59	18.25	1,077
State Sources of Non-Federal Matching Share Report	52	2.25	117
State Significant Preservation Accomplishments Summary	59	3.75	221
Annual Achievements Report for States	25	2.25	56
Tribal Historic Preservation Office (THPO) Grants Product Summary Page	150	15.50	2,325
THPO Annual Report	150	23.00	3,450
Total	56,680	.....	58,249

Estimated Annual Nonhour Burden Cost: $90,836.

Comments:

On April 17, 2014, we published in the **Federal Register** (79 FR 21792) a

notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on June 16, 2014. We did not receive any comments in response to this notice.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: August 25, 2014.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2014–20621 Filed 8–28–14; 8:45 am]

BILLING CODE 4310–EH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–510 and 731–TA–1245 (Final)]

Calcium Hypochlorite From China; Scheduling of the Final Phase Of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–510 and 731–TA–1245 (Final) under sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China of calcium hypochlorite, provided for in subheadings 2828.10.00, 3808.94.50, or 3808.99.95 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* Friday, July 25, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), 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 these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of calcium hypochlorite, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on Wednesday, December 18, 2013, by Arch Chemicals, Inc., Atlanta, GA.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''calcium hypochlorite, regardless of form (e.g., powder, tablet (compressed), crystalline (granular), or in liquid solution), whether or not blended with other materials, containing at least 10% available chlorine measured by actual weight. The scope also includes bleaching powder and hemibasic calcium hypochlorite.

Calcium hypochlorite has the general chemical formulation $Ca(OCl)_2$, but may also be sold in a more dilute form as bleaching powder with the chemical formulation, $Ca(OCl)_2.CaCl_2.Ca(OH)_2.2H_2O$ or hemibasic calcium hypochlorite with the chemical formula of $2Ca(OCl)_2.Ca(OH)_2$ or $Ca(OCl)_2.0.5Ca(OH)_2$. Calcium hypochlorite has a Chemical Abstract Service (''CAS) registry number of 7778–54–3, and a U.S. Environmental Protection Agency (''EPA'') Pesticide Code (''PC'') Number of 014701. The subject calcium hypochlorite has an International Maritime Dangerous Goods (''IMDG'') code of Class 5.1 UN 1748, 2880, or 2208 or Class 5.1/8 UN 3485, 3486, or 3487.

Calcium hypochlorite is currently classifiable under the subheading 2828.10.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The subheading covers commercial calcium hypochlorite and other calcium hypochlorite. When tableted or blended with other materials, calcium hypochlorite may be entered under other tariff classifications, such as 3808.94.5000 and 3808.99.9500, which cover disinfectants and similar products. While the HTSUS subheadings, the CAS registry number, the U.S. EPA PC number, and the IMDG codes are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.''

nonpublic record on Monday, November 10, 2014, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, November 25, 2014, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Friday, November 21, 2014. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on Thursday, November 20, 2014, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is Tuesday, November 18, 2014. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is Wednesday, December 3, 2014. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before Wednesday, December 3, 2014. On Wednesday, December 31, 2014, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before Monday, January 5, 2015, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 26, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–20588 Filed 8–28–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–905]

Certain Wireless Devices Including Mobile Phones and Tablets II; Notice of Commission Determination Not To Review an Initial Determination Granting Joint Motions To Terminate the Investigation Based on Settlement Agreements; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 22) granting joint motions to terminate the investigation based on settlement agreements. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 24, 2014, based on a complaint filed on December 18, 2013, on behalf of Pragmatus Mobile, LLC of Alexandria, Virginia (''Pragmatus''). 79 FR 4173 (Jan. 24, 2014). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale within the United States after importation of certain wireless devices, including mobile phones and tablets, by reason of infringement of U.S. Patent Nos. 8,149,124 and 8,466,795. The Commission's notice of investigation named as respondents Nokia Corporation of Espoo, Finland; and Nokia, Inc. of Sunnyvale, California (collectively, ''Nokia''); Samsung Electronics Co., Ltd of Seoul, Republic of Korea; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; and Samsung Telecommunications America, L.L.C. of Richardson, Texas (collectively, ''Samsung''); Sony Corporation of Tokyo, Japan; Sony Mobile Communications AB of Lund, Sweden; and Sony Mobile Communications (USA), Inc. of Atlanta, Georgia (collectively, ''Sony''); ZTE Corporation of Guangdong, China; and ZTE (USA) Inc. of Richardson, Texas (collectively, ''ZTE''). The Office of Unfair Import Investigations participated in the investigation.

On July 18, 2014, Pragmatus, Nokia, Sony, and ZTE jointly moved to terminate the investigation based upon a settlement reached by the parties (''the Nokia/Sony/ZTE motion''). On July 23, 2014, Pragmatus and Samsung also

jointly moved to terminate the investigation based upon a settlement reached by the parties (''the Samsung motion''). The Commission investigative staff filed responses in support of both motions.

On August 4, 2014, the ALJ issued the subject ID (Order No. 22) granting both motions. No petitions for review were filed.

After considering the subject ID and the relevant portions of the record, the Commission has determined not to review the subject ID. The Commission agrees with the ALJ that both motions comply with the Commission's rules for termination, and that the settlements do not adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. Accordingly, the investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: August 25, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–20564 Filed 8–28–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0010]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Notice of Appeal to the Board of Immigration Appeals From a Decision of a DHS Officer

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 28, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jeff Rosenblum, General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia, 20530; telephone: (703) 305–0470.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is EOIR–29, Executive Office for Immigration Review, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: A party who appeals a decision of a DHS Officer to the Board of Immigration Appeals (Board). Other: None. Abstract: A party affected by a decision of a DHS Officer may appeal that decision to the Board, provided that the Board has jurisdiction pursuant to 8 CFR § 1003.1(b). The party must complete the Form EOIR–29 and submit it to the DHS office having administrative control over the record of proceeding in order to exercise its regulatory right to appeal.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 6,569 respondents will complete the form annually with an average of 30 minutes per response for completion.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 3,284.5 hours. It is estimated that respondents will take 30 minutes to complete a form EOIR–29. The burden hours for collecting respondent data sum to 3,284.5 hours (6,659 respondents × .5 hours = 3,284.5 hours).

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 26, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–20617 Filed 8–28–14; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0005]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: Semi-Annual Progress Report for Grants To Reduce Violent Crimes Against Women on Campus Program (Campus Program)

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women (OVW), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** 79, Number 124, page 36559, on June 27, 2014, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until September 29, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Office on Violence Against Women, at 202–514–5430. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—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. *The Title of the Form/Collection:* Semi-Annual Progress Report for Grants to Reduce Violent Crimes Against Women on Campus Program (Campus Program).

3. *The agency form number:* 1122–0005.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Campus Program Grantees.

Other:

Abstract: The affected public includes the approximately 100 grantees (institutions of higher education) of the Campus Program whose eligibility is determined by statute. Campus Program grants may be used to enhance victim services and develop programs to prevent violent crimes against women on campuses. The Campus Program also enables institutions of higher education to develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, including domestic violence, dating violence, sexual assault, and stalking.

OVW uses data from the information collection in different ways. OVW will use the information collected from Campus Program grantees to monitor their grant-funded activities. OVW will review each semi-annual progress report to monitor an individual grantee's performance, including the grant-funded activities, and to ensure that the goals and objectives set forth in applications for funding and award documents are met.

In addition, information collected from grantees will enable OVW to respond to statutory requirements to report to Congress on the effectiveness of grant-funded activities.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the approximately 100 respondents (Campus Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Campus Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

6. *An estimate of the total public burden (in hours) associated with the collection:* 200 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 26, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–20583 Filed 8–28–14; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0018]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: Semi-Annual Progress for the Grants to Indian Tribal Governments Program (Tribal Governments Program)

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women (OVW), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** 79, Number 125 FR, page 36819, on June 30, 2014, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until September 29, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Office on Violence Against Women, at 202–514–5430. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or
—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. *The Title of the Form/Collection:* Semi-Annual Progress for the Grants to Indian Tribal Governments Program (Tribal Governments Program)

3. *The agency form number:* 1122–0018.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Tribal Governments Program Grantees.

Other:

Abstract: The affected public includes the approximately 85 grantees of the Grants to Indian Tribal Governments Program (Tribal Governments Program), a grant program authorized by the Violence Against Women Act of 2005. This discretionary grant program is designed to enhance the ability of tribes to respond to violent crimes against Indian women, enhance victim safety, and develop education and prevention strategies. Eligible applicants are recognized Indian tribal governments or their authorized designees.

OVW uses data from the information collection in different ways. OVW will use the information collected from Tribal Governments Program grantees to monitor their grant-funded activities. OVW will review each semi-annual progress report to monitor an individual grantee's performance, including the grant-funded activities, and to ensure that the goals and objectives set forth in applications for funding and award documents are met. In addition, information collected from grantees will enable OVW to respond to statutory requirements to report to Congress on the effectiveness of grant-funded activities.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the approximately 85 respondents (Tribal Governments Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Tribal Governments Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

6. *An estimate of the total public burden (in hours) associated with the collection:* 170 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 26, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–20587 Filed 8–28–14; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0010]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: Semi-Annual Progress Report for Grantees From the Grants to State Sexual Assault and Domestic Violence Coalitions Program (State Coalitions Program)

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women (OVW), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** 79, Number 125, page 36820, on June 30, 2014, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until September 29, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Office on Violence Against Women, at 202–514–5430. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and/or
—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. *The Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Grants to State Sexual Assault and Domestic Violence Coalitions Program (State Coalitions Program).

3.*The agency form number:* 1122–0010.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State Coalitions Program Grantees

Other:

Abstract: The affected public includes the 88 grantees from the State Coalitions Program. The State Coalitions Program provides federal financial assistance to state coalitions to support the coordination of state victim services activities, and collaboration and coordination with federal, state, and local entities engaged in violence against women activities.

OVW uses data from the information collection in different ways. OVW will use the information collected from State Coalitions Program grantees to monitor their grant-funded activities. OVW will review each semi-annual progress report to monitor an individual grantee's performance, including the grant-funded activities, and to ensure that the goals and objectives set forth in applications for funding and award documents are met. In addition, information collected from grantees will enable OVW to respond to statutory requirements to report to Congress on the effectiveness of grant-funded activities.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

It is estimated that it will take the approximately 88 respondents (State Coalitions Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A State Coalitions Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

6. *An estimate of the total public burden (in hours) associated with the collection:* 176 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 26, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–20585 Filed 8–28–14; 8:45 am]

BILLING CODE 4410–EX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0009]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: Semi-Annual Progress Report for Safe Havens: Supervised Visitation and Safe Exchange Grant Program

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women (OVW), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** 79, Number 121, page 35797, on June 24, 2014, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until September 29, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Office on Violence Against Women, at 202–514–5430. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—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. *The Title of the Form/Collection:* Semi-Annual Progress Report for Safe Havens: Supervised Visitation and Safe Exchange Grant Program

3. *The agency form number:* 1122–0009.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Safe Havens Program Grantees.

Other:

Abstract: The affected public includes the approximately 33 grantees of the Supervised Visitation Program who are States, Indian tribal governments, and units of local government. The Supervised Visitation Program provides an opportunity for communities to support the supervised visitation and safe exchange of children, by and between parents, in situations involving domestic violence, child abuse, sexual assault, or stalking.

OVW uses data from the information collection in different ways. OVW will use the information collected from Safe Havens Program grantees to monitor their grant-funded activities. OVW will review each semi-annual progress report to monitor an individual grantee's performance, including the grant-funded activities, and to ensure that the goals and objectives set forth in applications for funding and award documents are met. In addition, information collected from grantees will enable OVW to respond to statutory requirements to report to Congress on the effectiveness of grant-funded activities.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the approximately 33 respondents (Supervised Visitation Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Supervised Visitation Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

6. *An estimate of the total public burden (in hours) associated with the collection:* 66 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 26, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–20584 Filed 8–28–14; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: Semi-Annual Progress Report for Grantees From the Grants To Support Tribal Domestic Violence and Sexual Assault Coalitions Program (Tribal Coalitions Program)

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women (OVW), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** 79, Number 125, page 36820, on June 30, 2014, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until September 29, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Office on Violence Against Women, at 202–514–5430. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—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. *The Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Grants To Support Tribal Domestic Violence and Sexual Assault Coalitions Program (Tribal Coalitions Program).

3. *The agency form number:* 1122–0011.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Tribal Coalitions Program Grantees.

Other:

Abstract: The affected public includes the 14 grantees from the Tribal Coalitions Program. The Tribal Coalitions Program grantees include Indian tribal governments that will support the development and operation of new or existing nonprofit tribal domestic violence and sexual assault coalitions in Indian country. These grants provide funds to develop and operate nonprofit tribal domestic violence and sexual assault coalitions in Indian country to address the unique issues that confront Indian victims. The Tribal Coalitions Program provides resources for organizing and supporting efforts to end violence against Indian women.

OVW uses data from the information collection in different ways. OVW will use the information collected from Tribal Coalitions Program grantees to monitor their grant-funded activities. OVW will review each semi-annual progress report to monitor an individual grantee's performance, including the grant-funded activities, and to ensure that the goals and objectives set forth in applications for funding and award documents are met. In addition, information collected from grantees will enable OVW to respond to statutory requirements to report to Congress on the effectiveness of grant-funded activities.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the 14 respondents (grantees from the Tribal Coalitions Program) approximately one hour to complete a Semi-Annual Progress Report. The Semi-Annual Progress Report is divided into sections that pertain to the different types of activities that grantees may engage in with grant funds. Grantees must complete only those sections that are relevant to their activities.

6. *An estimate of the total public burden (in hours) associated with the collection:* 28 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: August 26, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–20586 Filed 8–28–14; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On August 26, 2014, the Department of Justice lodged a proposed consent decree with the United States District Court for the Western District of Michigan in the lawsuit entitled *United States* v. *The Estate of F. Paul Meeuwenberg, et al.,* Civil Action No. 1:14–cv–907.

The proposed consent decree fully resolves claims of the U.S. Environmental Protection Agency (''EPA'') against the Estate of F. Paul Meeuwenberg (''Estate'') and Richard A. Meeuwenberg, in his capacity as Representative of the Estate, (collectively ''Settling Defendants'') for response costs and injunctive relief under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601–9675, regarding the Grand Traverse Overall

Supply Superfund Site (''Site'') in Greilickville, Michigan. A complaint, which was filed at the same time that the United States lodged the proposed consent decree, alleges the Settling Defendants are liable as successors to F. Paul Meeuwenberg (deceased), who was an owner and operator of the Site during the period of disposal of hazardous substances and, as such, liable for response costs and injunctive relief under Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). Under the proposed consent decree, the Settling Defendants shall, within 30 days of the entry of the Consent Decree, make a lump sum payment of $1,000,860 to EPA as reimbursement of response costs.

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. *The Estate of F. Paul Meeuwenberg, et al.,* D.J. Ref. No. 90–11–3–10315. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will also provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.00 (24 pages at 25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–20637 Filed 8–28–14; 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; Application for Permanent Employment Certification

ACTION: Notice.

SUMMARY: On August 29, 2014, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, ''Application for Permanent Employment Certification,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (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 29, 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=201408-1205-003* (this link will only become active on August 30, 2014) or by contacting Michel Smyth at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to: *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to: *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for a revision to the Application for Permanent Employment Certification, Form ETA–9089, information collection. The form is used in DOL's employment-based immigration program by employers to request permission to bring foreign workers to the United States as immigrants and in the Department of Homeland Security's National Interest Waiver program by individuals applying for a waiver of the job offer requirement if the waiver is deemed to be in the national interest. This information collection has been classified as a revision, because of minor clarifications to some of the data respondents are to provide. Immigration and Nationality Act sections 203(b)(2), 203(b)(3), and 212(a)(5)(A) authorize this information collection. *See* 8 U.S.C. 1153(b)(2), 1153(b)(3), 1182(a)(5)(A). *See also* regulations 20 CFR 656 and 8 CFR 204.5.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0451. The current approval is scheduled to expire on August 31, 2014; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 5, 2014 (79 FR 25621).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by September 29, 2014. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0451. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Application for Permanent Employment Certification.

OMB Control Number: 1205–0451.

Affected Public: Individuals or households; State, Local, and Tribal Governments; and Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

Total Estimated Number of Respondents: 73,400.

Total Estimated Number of Responses: 295,472.

Total Estimated Annual Time Burden: 227,687 hours.

Total Estimated Annual Other Costs Burden: $467,000.

Dated: August 22, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–20565 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Steel Erection Standard

ACTION: Notice.

SUMMARY: On August 29, 2014, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Steel Erection Standard,'' 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 29, 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=201408-1218-008* (this link will only become active on September 30, 2014) 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–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Steel Erection Standard information collection requirements codified in regulations 29 CFR part 1926, subpart R. The Standard contains information collection requirements to notify designated parties—especially steel erectors—that building materials, components, steel structures, and fall-protection equipment meet required criteria; and to ensure workers exposed to fall hazards receive specified training in the recognition and control of the hazards. Occupational Safety and Health Act of 1970 sections 2(b)(9), 6(b)(7), and 8(c) authorize this information collection. *See* 29 U.S.C. 651(b)(9), 655(b)(7), 657(c).

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 1218–0241.

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 June 19, 2014 (79 FR 35189).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by September 29, 2014. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0241. 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–OSHA.

Title of Collection: Steel Erection Standard.

OMB Control Number: 1218–0241.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 13,864.

Total Estimated Number of Responses: 72,317.

Total Estimated Annual Time Burden: 21,393 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: August 25, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–20604 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of ''Cognitive and Psychological Research.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section of this notice on or before October 28, 2014.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, telephone number 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Labor Statistics' Behavioral Science Research Center (BSRC) conducts theoretical, applied, and evaluative research aimed at improving the quality of data collected and published by the Bureau. Since its creation in 1988, the BSRC has advanced the study of survey methods research, approaching issues of non-sampling error within a framework that draws heavily on the theories and methods of the cognitive, statistical, and social sciences. The BSRC research focuses primarily on the assessment of survey instrument design and survey administration, as well as on issues related to interviewer training, the interaction between interviewer and respondent in the interview process, and the usability of data-collection instruments by both interviewers and respondents. Improvements in these areas result in greater accuracy and response rates of BLS surveys, frequently reduce costs in training and survey administration, and further ensure the effectiveness of the Bureau's overall mission.

II. Current Action

Office of Management and Budget clearance is being sought for ''Cognitive and Psychological Research.'' The purpose of this request for clearance by the BSRC is to conduct cognitive and psychological research designed to enhance the quality of the Bureau's data collection procedures and overall data management. The BLS is committed to producing the most accurate and complete data within the highest quality assurance guidelines. The BSRC was created to aid in this effort and it has demonstrated the effectiveness and value of its approach. Over the next few years, demand for BSRC consultation is expected to remain high as approaches are explored and tested for dealing with increasing nonresponse in key Bureau surveys. Moreover, as the use of web-based surveys continues to grow, so too will the need for careful tests of instrument design and usability, human-computer interactions, and the impact of multiple modes on data quality. The BSRC is uniquely equipped with both the skills and facilities to accommodate these demands.

The extension of the accompanying clearance package reflects an attempt to accommodate the increasing interest by BLS program offices and other agencies in the methods used, and the results obtained, by the BSRC. This package reflects planned research and development activities for FY2015 through FY2017, and its approval will enable the continued productivity of a state-of-the-art, multi-disciplinary program of behavioral science research to improve BLS survey methodology.

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Cognitive and Psychological Research.

OMB Number: 1220–0141.

Affected Public: Individuals and Households, Private Sector.

Total Respondents: 2,202.

Frequency: One time.

Total Responses: 2,202.

Average Time per Response: 60 minutes.

Estimated Total Annual Burden Hours: 2,202 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

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

Signed at Washington, DC, this 26th day of August 2014.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–20610 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Intent To Renew the Bureau of Labor Statistics Data Users Advisory Committee

The Secretary of Labor is announcing the intent to renew a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the renewal of the Bureau of Labor Statistics Data Users Advisory Committee (the ''Committee'') is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic and government communities, on matters related to the analysis, dissemination, and use of the Bureau's statistics, on its published reports, and on gaps between or the need for new Bureau statistics.

The Committee will function solely as an advisory body to the BLS, on technical topics selected by the BLS.

The Committee is responsible for providing the Commissioner of Labor Statistics: (1) The priorities of data users; (2) suggestions concerning the addition of new programs, changes in the emphasis of existing programs or cessation of obsolete programs; and (3) advice on potential innovations in data analysis, dissemination and presentation. The Committee reports to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

The Committee will not exceed 20 members. Committee members are nominated by the Commissioner of Labor Statistics and approved by the Secretary of Labor. Membership of the Committee will represent a balance of expertise across a broad range of BLS program areas, including employment and unemployment statistics, occupational safety and health statistics, compensation measures, price indexes, and productivity measures; or other areas related to the subject matter of BLS programs. All committee members will have extensive research or practical experience using BLS data. The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

For Further Information Contact: Cheryl Kerr, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202–691–7808, email: *kerr.cheryl@bls.gov.*

Signed at Washington, DC, this 26th day of August 2014.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–20611 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0040]

SGS North America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of SGS North America, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before September 15, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0040, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2006–0040). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before September 15, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency

Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that SGS North America, Inc. (SGS), is applying for expansion of its current recognition as an NRTL. SGS requests the addition of four test standards to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including SGS, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

SGS currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: SGS North America, Inc., 620 Old Peachtree Road, Suwanee, Georgia 30024. A complete list of SGS's scope of recognition is available at *http://www.osha.gov/dts/otpca/nrtl/sgs.html.*

II. General Background on the Application

SGS submitted an application, dated May 28, 2014 (Exhibit 14–3—SGS Request for Expansion), to expand its recognition to include four additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in SGS's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 982	Motor-Operated Household Food Preparing Machines.
UL 1026	Electric Household Cooking and Food Serving Appliances.
UL 1028	Hair Clipping and Shaving Appliances.
UL 1431	Personal Hygiene and Health Care Appliances.

III. Preliminary Findings on the Application

SGS submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent information, indicate that SGS can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these four test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of SGS's application.

OSHA welcomes public comment as to whether SGS meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0040.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant SGS's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 25, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–20593 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0026]

Curtis-Straus LLC: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Curtis-Straus LLC for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before September 15, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2009–0026, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.—4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2009–0026). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before September 15, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that Curtis-Straus LLC (CSL) is applying for expansion of its current recognition as an NRTL. CSL requests the addition of one test standard to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including CSL, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSL currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: Curtis-Straus LLC, One Distribution Center Circle, Suite #1, Littleton, Massachusetts 01460. A complete list of CSL's scope of recognition is available at *http://www.osha.gov/dts/otpca/nrtl/csl.html.*

II. General Background on the Application

CSL submitted an application, dated February 13, 2014 (Exhibit 14–1—CSL Expansion Application for AAMI ES 60601–1), to expand its recognition to include one additional test standard. OSHA staff performed a comparability analysis and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standard found in CSL's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN CSL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
AAMI ES60601–1	Medical electrical equipment-Part 1: General requirements for basic safety and essential performance

III. Preliminary Findings on the Application

CSL submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and the comparability analysis, indicate that CSL can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of this one test standard for NRTL testing and certification listed above. This

preliminary finding does not constitute an interim or temporary approval of CSL's application.

OSHA welcomes public comment as to whether CSL meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2009–0026.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant CSL's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of its final decision in the **Federal Register.**

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 25, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–20561 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0030]

IAPMO EGS: Application for Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of the International Association of Plumbing and Mechanical Officials EGS (IAPMO), for recognition as a Nationally Recognized Testing Laboratory (NRTL), and presents the Agency's preliminary finding to grant this recognition.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before September 29, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2013–0030, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2013–0030). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before September 29, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA's workplace standards require that an NRTL test and certify certain types of equipment as safe for use in the workplace. NRTLs are independent laboratories that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. To

obtain and retain OSHA recognition, NRTLs must meet the legal requirements in the NRTL Program regulations at 29 CFR 1910.7. More specifically, to be recognized by OSHA, an organization must: (1) have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of employers subject to the tested equipment requirements, and manufacturers and vendors of products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures. Recognition is an acknowledgement by OSHA that the NRTL has the capability to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition, and is not a delegation or grant of government authority. Recognition of an NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification.

The Agency processes applications for initial recognition following requirements in Appendix A of 29 CFR 1910.7. This appendix requires OSHA to publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application, provides its preliminary finding, and solicits comments on its preliminary findings. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition.

II. Notice of the Application for Recognition

OSHA is providing notice that IAPMO is applying for recognition as an NRTL. According to public information (see *http://www.iapmoegs.org/Pages/default.aspx*), IAPMO states that it performs independent testing and listing for pool, spa and bathtub industries. In its application, IAPMO lists the current address of its headquarters as: IAPMO EGS, 5001 E. Philadelphia Street, Ontario, California 91761.

Each NRTL's scope of recognition has three elements: (1) the type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that have the technical capability to perform the product-testing and product-certification activities for the applicable test standards within the NRTL's scope of recognition; and (3) the supplemental program(s) that the NRTL may use, each of which allows the NRTL to rely on other parties to perform activities necessary for testing and certification. IAPMO applied for initial recognition as an NRTL on April 7, 2009. In its application, IAPMO requested recognition for six test standards, one site, and two supplemental programs (Exhibit 14–1—IAPMO Initial Application for Recognition). The following sections set forth the requested scope of recognition included in IAPMO's application.

A. Standards Requested for Recognition

Table 1 below lists the appropriate test standards found in IAPMO's application for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN IAPMO'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 778	Motor-Operated Water Pumps
UL 1081	Swimming Pool Pumps, Filters, and Chlorinators
UL 1431	Personal Hygiene and Health Care Appliances
UL 1563	Electric Spas, Equipment Assemblies, and Associated Equipment
UL 1795	Hydromassage Bathtubs
UL 1951	Electric Plumbing Accessories

The test standards listed above may be approved as U.S. test standards by the American National Standards Institute (ANSI). However, for convenience, the Agency may use the designations of the standards-developing organization for the test standards instead of the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard.

B. Sites Requested for Recognition

The current address of IAPMO's one site included in its application for recognition as an NRTL is: IAPMO EGS, 5001 E. Philadelphia Street, Ontario, California 91761. The NRTL Program requires that at least one of the recognized sites listed above have the capability to conduct the product testing in accordance with the appropriate test standard for the equipment or material being tested and certified.

C. Supplemental Programs

The supplemental programs listed in IAPMO's application for recognition as an NRTL include:

Program 2: Acceptance of testing data from independent organizations, other than NRTLs.

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents (for calibration services only).

III. Preliminary Finding on the Application for Recognition as an NRTL

OSHA's NRTL Program recognition process involves a thorough analysis of an NRTL applicant's policies and procedures, and a comprehensive on-site review of the applicant's testing and certification activities to ensure that the applicant meets the requirements of 29 CFR 1910.7. OSHA staff performed a detailed analysis of IAPMO's application packet and reviewed other pertinent information. IAPMO's Ontario, California site has the capability to conduct testing and certification in accordance with requirements outlined in the test standard specifications for the test standards listed in Section II. A. above. OSHA staff also performed a comprehensive on-site assessment of IAPMO's testing facilities on February 27 and 28, 2014. An overview of OSHA's assessment of the four requirements for recognition (i.e., capability, control procedures, independence, and creditable reports and complaint handling) are provided below.

A. Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or

material to be listed, labeled, or accepted, the NRTL must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality-control programs), to perform appropriate testing. OSHA staff performed a detailed analysis of IAPMO's application packet and reviewed other pertinent information to assess its capabilities to perform test and certification activities. OSHA determined that IAPMO has demonstrated these capabilities through following:

- The IAPMO facility has adequate test areas, energy sources, and procedures for controlling incompatible activities.
- IAPMO provided a detailed list of its testing equipment. Review of the application shows that the equipment listed is available and adequate for the standards for which it seeks recognition.
- IAPMO has detailed procedures for conducting testing, review, and evaluation, and for capturing the test and other data required by the test standards for which it seeks recognition.
- IAPMO has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting laboratory activities.
- IAPMO has sufficient qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience.
- IAPMO has an adequate quality-control system in place to conduct internal audits, as well as tracking and resolution of non-conformances.

OSHA's on-site assessment of IAPMO's facilities confirmed the capabilities described in its application packet. While the assessors found some non-conformances with the requirements of 29 CFR 1910.7, IAPMO addressed these issues sufficiently to meet the applicable NRTL requirements.

B. Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. These controls and services include procedures for identifying the listed or labeled equipment or materials, inspections of production runs at factories to assure conformance with test standards, and field inspections to monitor and assure the proper use of identifying marks or labels. OSHA staff performed a detailed analysis of IAPMO's application packet and reviewed other pertinent information to assess its control procedures. OSHA determined that IAPMO has demonstrated these capabilities through following:

- IAPMO has a quality-control manual and detailed procedures to address the steps involved to list and certify products.
- IAPMO has a registered certification mark.
- IAPMO has certification procedures to address the authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities.

OSHA's on-site assessment of IAPMO's facilities confirmed the control procedures described in its application packet. While the assessors found some non-conformances with the requirements of 29 CFR 1910.7, IAPMO addressed these issues sufficiently to meet the applicable NRTL requirements.

C. Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers that are subject to the testing requirements, and of any manufacturers or vendors of equipment or materials tested under the NRTL Program. OSHA has a policy for the independence of NRTLs that specifies the criteria used for determining whether an organization meets the above requirement (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph V). This policy contains a non-exhaustive list of relationships that would cause an organization to fail to meet the specified criteria. OSHA staff performed a detailed analysis of IAPMO's application packet and reviewed other pertinent information to assess its independence. OSHA determined that IAPMO has demonstrated independence through the following:

- IAPMO is a privately owned organization, and OSHA found no information regarding ownership that would qualify as a conflict under OSHA's independence policy.
- IAPMO shows that it has none of the relationships described above or any other relationship that could subject it to undue influence when testing for product safety.

D. Credible Reports and Complaint Handling

Section 1910.7(b)(4) specifies that a NRTL must maintain effective procedures for producing credible findings and reports that are objective and free of bias. The NRTL must also have procedures for handling complaints and disputes under a fair and reasonable system. OSHA staff performed a detailed analysis of IAPMO's application packet and reviewed other pertinent information to assess its ability to produce credible results and handle complaints. OSHA determined that IAPMO has demonstrated these capabilities through the following.

- IAPMO has detailed procedures describing the content of the test reports, and other detailed procedures describing the preparation and approval of these reports.
- IAPMO has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner.

OSHA's on-site assessment of IAPMO's facilities confirmed the credible reports and complaint handling procedures described in its application packet. While the assessors found some non-conformances with the requirements of 29 CFR 1910.7, IAPMO addressed these issues sufficiently to meet the applicable NRTL requirements.

OSHA's review of the application file and pertinent documentation, as well as the results of the on-site assessment, indicate that IAPMO can meet the requirements prescribed by 29 CFR 1910.7 for recognition as a Nationally Recognized Testing Laboratory for its site located in Ontario, California. The OSHA staff, therefore, preliminarily recommended that the Assistant Secretary approve the application. This preliminary finding does not constitute an interim or temporary approval of IAPMO's application.

OSHA welcomes public comment as to whether IAPMO meets the requirements of 29 CFR 1910.7 for recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in IAPMO's application, including pertinent documents (e.g., exhibits) and all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2013–0030.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues

raised by these comments, will recommend to the Assistant Secretary whether to grant IAPMO's application for recognition as an NRTL. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 25, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–20592 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0017]

QAI Laboratories, LTD.: Application for Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of QAI Laboratories, LTD., for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding to grant this recognition.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before September 29, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2013–0017, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2013–0017). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before September 29, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA's workplace standards require that an NRTL approve (i.e., test and certify) certain types of equipment as safe for use in the workplace. NRTLs are independent laboratories that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. To obtain and retain OSHA recognition, NRTLs must meet the requirements in the NRTL Program regulations at 29 CFR 1910.7. More specifically, to be recognized by OSHA, an organization must: (1) Have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of employers subject to the tested equipment requirements, and manufacturers and vendors of products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures. Recognition is an acknowledgement by OSHA that the NRTL has the capability to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition, and is not a delegation or grant of government authority. Recognition of an NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification.

The Agency processes applications for initial recognition following requirements in Appendix A of 29 CFR 1910.7. This appendix requires OSHA to publish two notices in the **Federal Register** in processing an application. In

the first notice, OSHA announces the application, provides its preliminary finding, and solicits comments on its preliminary findings. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition.

II. Notice of the Application for Recognition

OSHA is providing notice that QAI Laboratories, LTD., (QAI) is applying for recognition as an NRTL. According to public information (see *http://qai.org/about-us/*), QAI states that it was founded in 1994 by a group of certification and testing experts, and it is an independent third-party testing, inspection and certification organization which serves the building industry, government and individuals with solutions through its in-house capabilities/services, and a world-wide network of qualified affiliates. In its application, QAI lists the current address of its headquarters as: QAI Laboratories, LTD., #16–211 Schoolhouse Street, Coquitlam, British Columbia, Canada V3K 4X9.

Each NRTL's scope of recognition has three elements: (1) The type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that have the technical capability to perform the product-testing and product-certification activities for the applicable test standards within the NRTL's scope of recognition; and (3) the supplemental program(s) that the NRTL may use, each of which allows the NRTL to rely on other parties to perform activities necessary for testing and certification. QAI applied for initial recognition as an NRTL on May 28, 2013. In its application, QAI requested recognition for three test standards, two sites, and one supplemental program (Exhibit 14–1—QAI Initial Application for Recognition). The following sections set forth the requested scope of recognition included in QAI's application.

A. Standards Requested for Recognition

Table 1 below lists the appropriate test standards found in QAI's application for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN QAI'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 10B	Fire Tests of Door Assemblies.
UL 10C	Positive Pressure Fire Tests of Door Assemblies.
UL 1598	Luminaires.

The test standards listed above may be approved as U.S. test standards by the American National Standards Institute (ANSI). However, for convenience, the Agency may use the designations of the standards-developing organization for the test standards instead of the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard.

B. Sites Requested for Recognition

The addresses of QAI's sites included in its application for recognition as an NRTL are:

1. QAI Coquitlam, #16–211 Schoolhouse Street, Coquitlam, British Columbia, CANADA V3K 4X9; and
2. QAI Los Angeles, 8385 White Oak Avenue, Rancho Cucamonga, California 91730.

The NRTL Program requires that at least one of the recognized sites listed above have the capability to conduct the product-testing in accordance with the appropriate test standard for the equipment or material being tested and certified.

C. Supplemental Programs

The supplemental program listed in QAI's application for recognition as an NRTL includes:

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents (for calibration services only).

III. Preliminary Finding on the Application for Recognition as an NRTL

OSHA's NRTL Program recognition process involves a thorough analysis of an NRTL applicant's policies and procedures, and a comprehensive on-site review of the applicant's testing and certification activities to ensure that the applicant meets the requirements of 29 CFR 1910.7. OSHA staff performed a detailed analysis of QAI's application packet and reviewed other pertinent information. One or more of the sites listed above have the capability to conduct testing and certification in accordance with requirements outlined in the test standard specifications for the test standards listed in Section II.A above. OSHA staff also performed a comprehensive on-site assessment of QAI's testing facilities on February 25, 2014, at QAI Coquitlam and February 26, 2014, at QAI Los Angeles. An overview of OSHA's assessment of the four requirements for recognition (i.e., capability, control procedures, independence, and creditable reports and complaint handling) is provided below.

A. Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or material to be listed, labeled, or accepted, the NRTL must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality-control programs) to perform appropriate testing. OSHA staff performed a detailed analysis of QAI's application packet and reviewed other pertinent information to assess its capabilities to perform test and certification activities. OSHA determined that QAI has demonstrated these capabilities through the following:

- The QAI facility has adequate test areas and energy sources, and procedures for controlling incompatible activities.
- QAI provided a detailed list of its testing equipment. Review of the application shows that the equipment listed is available and adequate for the standards for which it seeks recognition.
- QAI has detailed procedures for conducting testing, review, and evaluation, and for capturing the test and other data required by the test standards for which it seeks recognition.
- QAI has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting laboratory activities.
- QAI has sufficient qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience.
- QAI has an adequate quality-control system in place to conduct internal audits, and track and resolve non-conformances.

OSHA's on-site assessment of QAI's facilities confirmed the capabilities described in its application packet. While the assessors found some non-conformances with the requirements of 29 CFR 1910.7, QAI addressed these

issues sufficiently to meet the applicable NRTL requirements.

B. Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. These controls and services include procedures for identifying the listed or labeled equipment or materials, inspections of production runs at factories to assure conformance with test standards, and field inspections to monitor and assure the proper use of identifying marks or labels. OSHA staff performed a detailed analysis of QAI's application packet and reviewed other pertinent information to assess its control procedures. OSHA determined that QAI has demonstrated these capabilities through the following:

- QAI has a quality-control manual and detailed procedures to address the steps involved to list and certify products.
- QAI has a registered certification mark.
- QAI has certification procedures to address the authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities.

OSHA's on-site assessment of QAI's facilities confirmed the control procedures described in its application packet. While the assessors found some non-conformances with the requirements of 29 CFR 1910.7, QAI addressed these issues sufficiently to meet the applicable NRTL requirements.

C. Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers that are subject to the testing requirements, and of any manufacturers or vendors of equipment or materials tested under the NRTL Program. OSHA has a policy for the independence of NRTLs that specifies the criteria used for determining whether an organization meets the above requirement (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph V). This policy contains a non-exhaustive list of relationships that would cause an organization to fail to meet the specified criteria. OSHA staff performed a detailed analysis of QAI's application packet and reviewed other pertinent information to assess its independence. OSHA determined that QAI has demonstrated independence through the following:

- QAI is a privately owned organization, and OSHA found no information regarding ownership that would qualify as a conflict under OSHA's independence policy.
- QAI shows that it has none of the relationships described above or any other relationship that could subject it to undue influence when testing for product safety.

D. Credible Reports and Complaint Handling

Section 1910.7(b)(4) specifies that a NRTL must maintain effective procedures for producing credible findings and reports that are objective and free of bias. The NRTL must also have procedures for handling complaints and disputes under a fair and reasonable system. OSHA staff performed a detailed analysis of QAI's application packet and reviewed other pertinent information to assess its ability to produce credible results and handle complaints. OSHA determined that QAI has demonstrated these capabilities through the following:

- QAI has detailed procedures describing the content of the test reports, and other detailed procedures describing the preparation and approval of these reports.
- QAI has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner.

OSHA's on-site assessment of QAI's facilities confirmed the creditable reports and complaint handling procedures described in its application packet. While the assessors found some non-conformances with the requirements of 29 CFR 1910.7, QAI addressed these issues sufficiently to meet the applicable NRTL requirements.

OSHA's review of the application file and pertinent documentation, as well as the results of the on-site assessment, indicate that QAI can meet the requirements prescribed by 29 CFR 1910.7 for recognition as an NRTL for both of its sites. The OSHA staff, therefore, preliminarily recommended that the Assistant Secretary approve the application. This preliminary finding does not constitute an interim or temporary approval of QAI's application.

OSHA welcomes public comment as to whether QAI meets the requirements of 29 CFR 1910.7 for recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension on or before the comment due date. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in QAI's application, including pertinent documents (e.g., exhibits), and all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2013–0017.

OSHA staff will review all comments submitted to the docket in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary whether to grant QAI's application for recognition as an NRTL. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 25, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–20591 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for MET Laboratories, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The renewal of recognition becomes effective on August 29, 2014.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. David Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *johnson.david.w@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of MET Laboratories, Inc. (MET), as an NRTL. MET's expansion covers the addition of one test standard to its scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The Agency processes applications by an NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages are available from the Agency's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

MET submitted an application, dated December 13, 2011 (OSHA–2006–0028–0015—MET Expansion Application for UL 2202), to expand its recognition to include one additional test standard. OSHA staff reviewed MET's application and other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing MET's expansion application in the **Federal Register** on May 6, 2014 (79 FR 25894). The Agency requested comments by May 21, 2014, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of MET's scope of recognition.

To obtain or review copies of all public documents pertaining to MET's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210. Docket No. OSHA–2006–0028 contains all materials in the record concerning MET's recognition.

II. Final Decision and Order

OSHA staff examined MET's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that MET meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below.

OSHA limits the expansion of MET's recognition to testing and certification of products for demonstration of conformance to the following test standard, which OSHA determined is an appropriate test standard within the meaning of 29 CFR 1910.7(c):

TABLE 1—APPROPRIATE TEST STANDARD FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 2202	Electric Vehicle (EV) Charging System Equipment.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include those products.

The American National Standards Institute (ANSI) may approve the test standard listed above as an American National Standard. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, MET must abide by the following conditions of the recognition:

1. MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as an NRTL, and provide details of the change(s);

2. MET must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. MET must continue to meet the requirements for recognition, including all previously published conditions on MET's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of MET, subject to the limitation and conditions specified above.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on August 25, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–20560 Filed 8–28–14; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board's Subcommittee on Facilities (SCF), pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

DATE AND TIME: Wednesday, September 3, 2014, 12:00–1:00 p.m., EDT.

SUBJECT MATTER: SCF chair's remarks, including approval of minutes of August 13 SCF meeting. SCF members will discuss facility synopses and the 2014 Annual Portfolio Review of facilities.

STATUS: Open.

This meeting will be held by teleconference. A public listening line will be available. Members of the public must contact the Board Office (call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the teleconference for the public listening number. Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) which may be found at *http://www.nsf.gov/nsb/notices/.* Point of contact for this meeting is John Veysey at *jveysey@nsf.gov.*

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2014–20777 Filed 8–27–14; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7018; NRC–2013–0115]

Tennessee Valley Authority for Watts Bar Nuclear Power Plant Unit 2; Special Nuclear Materials License Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has renewed Materials License No. SNM–2014 held by Tennessee Valley Authority (TVA) to possess, inspect and store an initial core of special nuclear material (SNM) in the form of fresh fuel assemblies at TVA's Watts Bar site in Spring City, Tennessee. On August, 23, 2012, TVA submitted its renewal application for their SNM license to extend their license expiration. NRC has reviewed TVA's license renewal application and submittals, and has renewed TVA's license to expire on September 30, 2017.

DATES: August 29, 2014.

ADDRESSES: Please refer to Docket ID NRC–2013–0115 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–2013–0115. 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 ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Further Information'' section of this document.
- 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: Marilyn Diaz, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9068, email: *Marilyn.Diaz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Section 2.106 of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice of the issuance of License Renewal to Material License No. SNM–2014, to continue to possess, inspect and store an initial core of SNM in the form of fresh fuel assemblies at the Watts Bar Nuclear Plant Unit 2 site in Spring City, Tennessee. This license is subject to the requirements of 10 CFR Part 70, Domestic Licensing of Special Nuclear Material. The licensee's request for renewal of its license was previously noticed in the **Federal Register** on August 22, 2013 (78 FR 52219), with a notice of an opportunity to request a hearing. No hearing requests were received. In accordance with 10 CFR Part 51, an environmental assessment of this action was completed and a finding of no significant impact was published in the **Federal Register** on December 17, 2013 (78 FR 76328).

This license renewal complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the NRC's rules and regulations as set forth in 10 CFR Chapter 1. Accordingly, this license renewal was issued on July 24, 2014, and is effective immediately.

II. Further Information

The NRC has prepared a Safety Evaluation Report that documents the information that was reviewed and the NRC's conclusion In accordance with 10 CFR 2.390 of the NRC's ''Rules of Practice,'' the details with respect to this action, including the SER and accompanying documentation and license, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. The ADAMS accession numbers for the documents related to this notice are:

1	TVA's renewal application for Watt Bar Unit 2 part 70 license, August 23, 2012.	ML12278A337
2	Response to Request for Additional Information, July 1, 2013.	ML13189A033
3	Renewal of SNM–2014 For WBN–2 Letter to J. Grimes, July 24, 2014.	ML14050A169
4	NRC Safety Evaluation Report, July 24, 2014.	ML14050A171
5	Renewed Special Materials License for WBN–2, July 24, 2014.	ML14050A170

Dated at Rockville, Maryland, this 25 day of August, 2014.

For the U.S. Nuclear Regulatory Commission.

Marilyn Diaz,

Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–20670 Filed 8–28–14; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency has prepared an information collection for OMB review and approval and has requested public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within 60 calendar-days of publication of this Notice.

ADDRESSES: Direct comments and requests for copies of the subject form to the Agency Submitting Officer: Essie Bryant, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527.

FOR FURTHER INFORMATION CONTACT: Agency Submitting Officer: Essie Bryant, Records Manager, (202) 336–8563.

Summary Form Under Review

Type of Request: New form.

Title: Aligned Capital Investor Screener.

Form Number: OPIC–253.

Frequency of Use: Once per investor.

Type of Respondents: Foundations, non-profit entities; investment fund managers, investment companies; U.S. Government Agencies.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies interested in making investments in companies investing overseas.

Reporting Hours: 16.5 hours (.33 hours per investor).

Number of Responses: 50 per year.

Federal Cost: $0.

Authority for Information Collection: Sections 231 and 239(d) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Aligned Capital Investor Screener is a document used to screen potential investors interested in participating in OPIC's Aligned Capital Program and, if they qualify, to place their information into the program. The Aligned Capital Program is a pilot program that OPIC has designed to align development finance with other capital, including philanthropic, socially responsible and impact investment, to enable effective deployment of that capital towards projects in the countries and sectors in which OPIC works. In order to participate, investors must be U.S. entities and meet the additional specified criteria.

Dated: August 22, 2014.

Nichole Cadiente,

Administrative Counsel, Administrative Affairs, Department of Legal Affairs.

[FR Doc. 2014–20443 Filed 8–28–14; 8:45 am]

BILLING CODE M

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Life Insurance Election, SF 2817

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Healthcare & Insurance/Federal Employee Insurance Operations (FEIO), Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0230, Life Insurance Election. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on April 25, 2014 at Volume 79 FR 23021 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until September 29, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESS: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of 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 submissions of responses.

Standard Form 2817 is used by Federal employees and assignees (those who have acquired control of an employee/annuitant's coverage through an assignment or ''transfer'' of the ownership of the life insurance). Clearance of this form for use by active Federal employees is not required according to the Paperwork Reduction Act (Pub. L. 98–615). The Public Burden Statement meets the requirements of 5 CFR 1320.8(b)(3). Therefore, only the use of this form by assignees, i.e. members of the public, is subject to the Paperwork Reduction Act.

Analysis

Agency: Federal Employee Insurance Operations, Office of Personnel Management

Title: Life Insurance Election.

OMB Number: 3206–0230.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 150.

Estimated Time Per Respondent: 15 minutes.

Total Burden Hours: 38 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–20629 Filed 8–28–14; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Hispanic Council on Federal Employment Meeting

AGENCY: Office of Personnel Management.

ACTION: Cancelling of Council Meeting and rescheduling of Council Meetings.

SUMMARY: The Hispanic Council on Federal Employment (Council) is cancelling the October 16, 2014 Council meeting and will hold the next Council meetings at the location shown below on the following dates and times:

- September 30 from 2:00 to 4:00 p.m.
- October 28 from 2:00 to 4:00 p.m.

The Council is an advisory committee composed of representatives from Hispanic organizations and senior government officials. Along with its other responsibilities, the Council shall advise the Director of the Office of Personnel Management on matters involving the recruitment, hiring, and advancement of Hispanics in the Federal workforce. The Council is co-chaired by the Director of the Office of Personnel Management and the Chair of the National Hispanic Leadership Agenda (NHLA).

The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to present material to the Council at any of the meetings. The manner and time prescribed for presentations may be limited, depending upon the number of parties that express interest in presenting information.

Location: U.S. Office of Personnel Management, 1900 E St. NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Veronica E. Villalobos, Director for the Office of Diversity and Inclusion, Office of Personnel Management, 1900 E St. NW., Suite 5H35, Washington, DC 20415. Phone (202) 606–0020 FAX (202) 606–2183 or email at *veronica.villalobos@opm.gov.*

U.S. Office of Personnel Management.

Katherine L. Archuleta,

Director.

[FR Doc. 2014–20628 Filed 8–28–14; 8:45 am]

BILLING CODE 6820–B2–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service™.

ACTION: Notice of modification to existing system of records.

SUMMARY: The United States Postal Service® (Postal Service) is proposing to modify one Customer Privacy Act System of Records. These modifications are being made to implement a credentialing solution to establish and maintain verified, trusted digital identities for customers. Once verified, this solution will enhance customers' access to Postal Service personalized digital services.

DATES: These revisions will become effective without further notice on September 29, 2014 unless comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be mailed or delivered to the Privacy and Records Office, United States Postal Service, 475 L'Enfant Plaza SW., Room 9431, Washington, DC 20260–1101. Copies of all written comments will be available at this address for public inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Matthew J. Connolly, Chief Privacy Officer, Privacy and Records Office, 202–268–8582 or *privacy@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their amended systems of records in the **Federal Register** when there is a revision, change, or addition. The Postal Service™ has reviewed these systems of records and has determined that this Customer Privacy Act System of Records should be revised to modify the following entries: categories of individuals covered by the system, categories of records in the system, purpose(s), and retention and disposal.

I. Background

The Postal Service seeks to provide greater security for customers as they utilize the Postal Service's personalized, digital products and services. The Postal Service has 20 million credentialed customers but with minimal assurance of valid, trusted identity. By implementing enhanced credentialing capabilities, we can offer our customers identity verification as they seek to take advantage of personalized postal services online.

II. Rationale for Changes to USPS Privacy Act Systems of Records

The System of Records 910.000 Identity & Document Verification Services is being modified to facilitate the verification of a customer's identity, either through online or in-person identity proofing, for certain USPS online services. This will implement a practical solution to establish and maintain verified digital identities for consumers.

Categories of individuals covered by the system will now encompass any customer who verifies his or her identity through the Postal Service's credentialing service, whether online or in person. With regard to an individual who verifies his or her identify in person, this section will also include the collection of employee logon information for auditing purposes. Purpose(s) will now reflect the credentialing service for customers who apply for that service. Categories of records in the system is being amended to delete a note regarding Social Security numbers and payment information. Although Social Security numbers will be collected and used for purposes of online credentialing, neither Social Security numbers nor payment information will be maintained in this SOR.

Lastly, the changes under retention and disposal will align the Postal Service with Federal Identity, Credential, and Access Management (FICAM) guidance with retention times of the data maintained for credentialed customers. All records related to identity verification will be kept for 7.5 years, unless an individual requests the Postal Service retain the records longer.

III. Description of Changes to Systems of Records

The Postal Service is modifying one system of records listed below. Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed modifications has been sent to Congress

and to the Office of Management and Budget for their evaluation. The Postal Service does not expect this amended notice to have any adverse effect on individual privacy rights. The affected systems are as follows:

USPS 910.000

SYSTEM NAME: Identity and Document Verification Services

Accordingly, for the reasons stated, the Postal Service proposes changes in the existing systems of records as follows:

USPS 910.000

SYSTEM NAME:

Identity and Document Verification Services

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

[CHANGE TO READ]

Customers who apply for identity and document verification services. Any customer who verifies his or her identity through USPS to access services.

CATEGORIES OF RECORDS IN THE SYSTEM

* * * * *

[CHANGE TO READ]

3. Verification and payment information: Credit and/or debit card information or other account number, government issued ID type and number, verification question and answer, and payment confirmation code.

* * * * *

[CHANGE TO READ]

6. Transaction information: Clerk signature; employee logon; transaction type, date and time, location, source of transaction; product use and inquiries.

* * * * *

PURPOSE(S)

* * * * *

[ADD TEXT]

6. To verify a customer's identity to access services.

* * * * *

RETENTION AND DISPOSAL

* * * * *

[CHANGE TO READ]

6. Records pertaining to identity verification are retained 7.5 years, to align with Federal Identity, Credential, and Access Management (FICAM) guidance unless retained longer by request of the customer.

[RENUMBER REMAINING TEXT]

* * * * *

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–20627 Filed 8–28–14; 8:45 am]

BILLING CODE 7710–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72911; File No. SR–NASDAQ–2014–086]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer a Volume Discount for the Bulk Purchase of Aged Reports Within the Category of Historical Research and Administrative Reports Under NASDAQ Rule 7022

August 25, 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 22, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to a proposal to [sic] offer a volume discount for the bulk purchase of aged reports within the category of Historical Research and Administrative Reports under NASDAQ Rule 7022.

* * * * *

7022. Historical Research and Administrative Reports

(a) No Change.

(b) The charge to be paid by the purchaser of an Historical Research Report regarding a Nasdaq security that wishes to obtain a license to redistribute the information contained in the report to subscribers shall be determined in accordance with the following schedule:

NUMBER OF SUBSCRIBERS

	1–500	501–999	1,000–4999	5,000–9,999	10,000+
A. Market Summary Statistics:					
More often than once a month	$250	$350	$450	$550	$750
Once a month, quarter, or year	125	175	225	275	375
B. Reserved					
C. Nasdaq Issues Summary Statistics:					
More often than once a month	500	600	700	800	1,000
Once a month, quarter, or year	250	300	350	400	500
Annual set of aged reports previously distributed more often than once a month.	*3,000*	*3,000*	*3,000*	*3,000*	*3,000*
D. Intra-Day Quote and Intra-Day Time and Sales Data:					
For a security and/or a market participant for a day	200	300	400	500	700
For all market participants for a day or for all securities for a day	1,000	1,500	2,500	3,500	5,000

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(c) No change.
(d) No change.

* * * * *

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

NASDAQ proposes to offer a volume discount for the bulk purchase of an existing report within the Nasdaq Issues Summary Statistics category of Historical Research and Administrative Reports under subsection C of NASDAQ Rule 7022(b). The pricing schedule for Nasdaq Issues Summary Statistics reports currently includes only short interest information.[3] The fee schedule for NASDAQ Issues Summary Statistics is currently divided into two tiers, one for reports distributed once per month or less, and a second for reports distributed more than once monthly.

NASDAQ is proposing to add a third tier of fees for Nasdaq Issues Summary Statistics reports for the purchase and distribution of a full year of the twice-monthly report of short interest on NASDAQ provided that the individual reports are each aged a full year. NASDAQ has been requested to offer a volume discount for the distribution of short interest reports aged more than one year that Distributors can make available to Subscribers in annual sets of twenty-four reports. The existing reports will be delivered in annual sets via an acceptable medium where each of the individual reports is sent simultaneously.

NASDAQ has determined to assess a fee of $3,000 for access to the annual sets of aged reports of short interest on NASDAQ. This is less than a Distributor would pay to distribute twenty-four short interest reports that will constitute each annual set of reports because the data in the annual set will be aged at least one year and therefore will be less valuable to investors. In addition, unlike the existing fee tiers, the volume discount will not be indexed to the number of subscribers receiving the annual set of reports; all Distributors will pay the $3,000 fee regardless of the number of recipients to which they distribute it.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. The volume discount is a pricing convention that exists in NASDAQ's current fee schedule and the fee schedules of multiple other exchanges. The volume discount currently exists for transaction fees, market access fees, and market data fees where members and other market participants pay lower unit costs as they purchase increasing amounts of a given product or service. The volume discount is predicated upon the well-accepted principle that the purchase and sale of a product becomes more efficient and less costly per unit as volumes purchased and sold increase.

NASDAQ believes that the proposed fee is also consistent with Section 6(b)(5) of the Act,[6] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposed volume discount enhances transparency and facilitates transactions through the dissemination of increased volumes of transaction-based data.

Finally, NASDAQ believes that the proposed fee is also consistent with Section 11A(c)(1)(D) of the Act,[7] in that it provides for a fee that is not unreasonably discriminatory in nature. The proposed volume discount is available equally to all members and other market participants that may seek short interest reports in annual sets. Additionally, while the $3,000 flat fee is substantially less than a distributor would pay to distribute the twenty-four individual short interest reports, NASDAQ believes that this volume discount is fair and reasonable and not unreasonably discriminatory because the data contained in the annual sets will be aged at least one year and therefore of less value to investors than are current reports. For the same reasons, NASDAQ believes it is fair and equitable and not unreasonably discriminatory that the volume discount will not be indexed to the number of subscribers receiving the aggregated report; all distributors will pay the $3,000 fee regardless of the number of recipients to which they distribute it.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in an undue burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. As described above, the volume discount already exists in many forms, and it has not [sic] found to impose any burden on competition. In this case, NASDAQ does not believe the volume discount will impose any burden on competition. With respect to distributors, the proposal would reduce fees for all market participants that purchase and distribute the reports, therefore each participant should be positioned equally with respect to such distribution.

With respect to competitors or NASDAQ, the proposed volume discount does not impose any burden on competition. NASDAQ competitors that distribute similar data are equally-well positioned to offer a volume discount for similar data. To the extent that NASDAQ's proposed volume discount prompts competitors to offer volume discounts, this effect is pro-competitive and beneficial to investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were either solicited or received.

[3] In 2013, NASDAQ moved the Daily List and Fundamental Data formerly covered by this rule into new NASDAQ Rule 7022(d). *See* Exchange Act Release No. 68636 (Jan. 11, 2013). In the future, this category may include other information that properly falls within the category of Nasdaq Issues Summary Statistics.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(c)(1)(D).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act,[8] and paragraph (f)[9] of Rule 19b–4, thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–086 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–NASDAQ–2014–086. 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–NASDAQ–2014–086, and should be submitted on or before September 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–20559 Filed 8–28–14; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72908; File No. SR–FICC–2014–01]

Self-Regulatory Organization; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Government Securities Division Rulebook in Order To Establish an Early Unwind Intraday Charge in Connection With the Inclusion of GCF Repo® Positions in GSD's Intraday Participant Clearing Fund Requirement, and GSD's Hourly Internal Surveillance Cycles

August 25, 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 11, 2014, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[3]

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The Government Securities Division (''GSD'') of FICC is proposing to amend the GSD Rulebook (the ''Rules'') in order to establish an early unwind intraday charge to protect against the exposure that may result from intraday cash substitutions and early unwind of interbank allocations[4] in connection with GSD's proposal to include the underlying collateral pertaining to the GCF Repo®[5] positions in GSD's noon intraday[6] participant Clearing Fund requirement (''CFR'') calculation, and GSD's hourly internal surveillance cycles.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

GSD is proposing to amend its Rules in order to establish an early unwind intraday charge (''EUIC'')[7] (discussed below) to protect against the exposure

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On January 10, 2014, FICC filed advance notice SR–FICC–2014–801 pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act titled the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1), and Rule 19b–4(n)(1)(i) of the Securities Exchange Act of 1934, 17 CFR 240.19b–4(n)(1)(i). The Commission published notice for comment in the **Federal Register** on February 10, 2014. Securities Exchange Act Release No. 34–71469 (February 4, 2014), 79 FR 7722 (February 10, 2014) (SR–FICC–2014–801). FICC filed Amendment No. 1 to this advance notice on August 11, 2014. A copy of the advance notice and Amendment No. 1 are available at *http://www.dtcc.com/legal/sec-rule-filings.aspx.*

[4] The ''early unwind of interbank allocations'' refers to the automatic return of the collateral from the reverse repo side (cash lender) to FICC's account at the repo side's (cash borrower's) settlement bank and the return of cash to the reverse repo side, which typically occurs before the opening of Fedwire.

[5] The GCF Repo® service enables dealers to trade general collateral repos, based on rate, term, and underlying product, throughout the day without requiring intra-day, trade-for-trade settlement on a Deliver-versus-Payment (''DVP'') basis. The service fosters a highly liquid market for securities financing. GCF Repo® is a registered trademark of The Depository Trust & Clearing Corporation.

[6] Noon intraday refers to the routine intraday margining cycle which is based on a 12:00 p.m. (ET) position snap shot. Pursuant to Rule 4, FICC may request additional margin outside of the formal intraday margin calls.

[7] In connection with GSD's proposal to include the underlying collateral pertaining to the GCF Repo® positions in its noon intraday CFR, GSD discovered circumstances under which a member would be charged an EUIC. If, however, a member is assessed an EUIC under circumstances that were not initially contemplated and the EUIC charge is deemed unnecessary, management will have the discretion to waive such charge.

that may result from intraday cash substitutions and early unwind of interbank allocations in connection with including the underlying collateral pertaining to the GCF Repo® positions in its noon intraday participant CFR calculation, and its hourly internal surveillance cycles.

(a) Background

On January 10, 2014, FICC filed advance notice SR–FICC–2014–801 [8] (''Advance Notice'') with the Commission. This filing describes FICC's proposal to include the underlying collateral pertaining to the GCF Repo® positions in its noon intraday participant CFR calculation, and its hourly internal surveillance cycles. This enhancement is intended to align GSD's risk management calculations and monitoring with the changes that have been implemented to the tri-party infrastructure by the Tri-Party Reform Task Force,[9] specifically, with respect to locking up of GCF Repo® collateral until 3:30 p.m. (ET) rather than 7:30 a.m. (ET). Subsequent to the initial Advance Notice filing, FICC discovered that under the proposed change, a potential exposure may result from a GCF Repo® participant's cash substitutions and early unwinds of interbank allocations. As a result, on August 11, 2014, FICC filed Amendment No. 1 to the Advance Notice with the Commission. FICC is filing this proposed rule change in order to amend its Rules to establish an EUIC to protect against the exposure that may result from intraday cash substitutions and early unwind of interbank allocations.

(b) Proposed Change

As noted above, GSD is proposing to establish an EUIC [10] to protect against the exposure that may result from intraday cash substitutions and early unwind of interbank allocations in connection with including the underlying collateral pertaining to the GCF Repo® positions in its noon intraday participant CFR calculation, and its hourly internal surveillance cycles.

In connection with its review of its proposal to incorporate the underlying collateral pertaining to the GCF Repo® positions in the GSD's noon intraday participant CFR calculation, GSD discovered that there were instances where exposure to FICC arose as a result of certain cash substitutions or early unwind of interbank allocations. This is because the noon intraday underlying collateral pertaining to the GCF Repo® positions of impacted participants may exhibit a different risk profile than their same end-of-day (''EOD'') [11] positions. The impact could be to increase or decrease the Value-at-Risk (''VaR'') component of the CFR.

In certain instances, cash substitutions, for repo and reverse repo positions and the early unwind of interbank allocations for reverse repo positions, could result in higher cash balances in the underlying collateral pertaining to GCF Repo® positions at noon intraday than the same EOD, and could present a potential under-margin condition because cash collateral is not margined. In addition, it is likely that the cash will be replaced by securities in the next GCF Repo® allocation of collateral. The under-margin condition will exist overnight because the VaR on the GCF Repo® collateral in the same EOD cycle will not be calculated until after Fedwire is closed thus precluding members from satisfying margin deficits until the morning of the next business day. Accordingly, GSD will adjust the noon intraday CFR in the form of an EUIC, to address this risk. In order to determine whether an EUIC should be applied, GSD will take the following steps:

1. At noon, GSD will compare the prior EOD VaR component of the CFR calculation with the current day's noon intraday VaR component of the CFR calculation.

2. If the current day's noon intraday VaR calculation is equal to or higher than the prior EOD's VaR calculation then GSD will not apply an EUIC. If however, the current day's noon calculation is lower, then GSD will proceed to the step 3. below.

3. GSD will review the GCF Repo® participant's DVP and GCF Repo® portfolio to determine whether the reduction in the noon calculation may be attributable to the GCF Repo® participant's intraday cash substitutions or early unwind of interbank allocations. If so, then GSD will apply the EUIC.

4. At the participant level, the EUIC [12] will be the lesser of (i) the net VaR decrease that may be deemed to be attributable to either cash substitutions and/or early unwind of interbank allocations or (ii) the prior EOD VaR minus the noon intraday VaR.[13]

The EUIC for cash substitutions will apply to the repo side (cash borrower) and the reverse repo side (cash lender) of the transaction. As such, it should be noted that the reverse repo side is subject to the EUIC notwithstanding its inability to control the substitutions. The EUIC for cash substitutions applies to the reverse repo side because although they do not initiate the cash substitutions, the cash substitutions change the participant's risk profile and as a result, their noon intraday CFR could be unduly reduced. The EUIC for the early unwind of interbank allocations will only apply to the reverse repo side (cash lender) since it is only the reverse side whose lockup is unwound early. The securities subject to the early unwind are not returned to the repo side (cash borrower) in connection with the early unwind of interbank allocations. The early unwind of interbank allocations is performed on the reverse repo side to ensure that the underlying collateral is available to the repo side at its settlement bank. Cash is returned to the reverse repo side and thus unwound early. As such, it should be noted that the reverse repo side is subject to the EUIC notwithstanding its inability to control the early unwind of interbank allocations as their noon intraday CFR could be unduly reduced as a result of such early unwind. GSD

[8] Securities Exchange Act Release No. 34–71469 (February 4, 2014), 79 FR 7722 (February 10, 2014) (SR–FICC–2014–801). A copy of this Advance Notice filing and the amendment thereto are available at *http://www.dtcc.com/legal/sec-rule-filings.aspx*.

[9] The Task Force was formed in September 2009 under the auspices of the Payments Risk Committee, a private-sector body sponsored by the Federal Reserve Bank of New York. The Task Force's goal is to enhance the repo market's ability to navigate stressed market conditions by implementing changes that help better safeguard the market. DTCC has worked in close collaboration with the Task Force on their reform initiatives.

[10] GSD's discovered circumstances under which a member would be charged an EUIC. If, however, a member is assessed an EUIC under circumstances that were not initially contemplated and the EUIC charge is deemed unnecessary, management will have the discretion to waive such charge.

[11] As used herein ''prior EOD'' refers to the end of day cycle immediately preceding the current noon intraday cycle and ''same EOD'' refers to the end of day cycle immediately subsequent to the current noon intraday cycle.

[12] The EUIC will be included in the noon intraday participant CFR, but not the same EOD CFR. This is because the risk associated with cash lockups exists at intraday, that is, at any time before at EOD. At EOD in the normal course of business, GCF Repo® positions consist of 100% eligible non-cash securities. GCF Repo® is used for overnight financing of securities inventory. Absent extraordinary circumstances, participants do not use cash to collateralized overnight cash loans. Cash substitutions occur at intraday as participants substitute in cash to withdraw securities they need for intraday deliveries.

[13] In the event that cash substitutions or early unwind of interbank allocations impacts the CFR, the prior end of day CFR is used as a proxy for the same end of day CFR for the portion of the portfolio that is impacted by such cash substitutions or early unwind of interbank allocations. The EUIC is designed to prevent the impact of cash substitutions and early unwind of interbank allocations from unduly reducing noon intraday CFR relative to the prior EOD CFR calculation, thus the EUIC will not increase the noon intraday CFR above the prior EOD CFR calculation. (But the noon intraday CFR calculation exclusive of EUIC could be higher than the prior EOD CFR calculation).

has discussed the EUIC with the participants that are likely to be materially impacted by this proposed charge. These participants did not express any concerns about the EUIC.

There is no automatic unwind (return of securities) to the repo side. If the repo side needs its securities before the 3:30 p.m. (ET) scheduled unwind, it may perform a securities-for-securities substitution or a cash-for-securities substitution (in which case it may be subject to the EUIC).

FICC believes it is important to incorporate the proposed changes in its risk management process as soon as possible because such changes will allow GSD to use more accurate position information in its margin calculations.

2. Statutory Basis

The proposed charge is consistent with the requirements of Section of 17A(b)(3)(F) of the Securities Exchange Act of 1934, as amended (the ''Act''), and the rules and regulations thereunder, because it applies prudent risk management to potential exposure that may result from intraday cash substitutions or early unwind of interbank allocations, and therefore facilitates the prompt and accurate clearance and settlement of securities transactions and assures the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible. As noted above, GSD discovered that cash substitutions and the early unwind of interbank allocations may unduly reduce the margin requirements of affected participants. The EUIC will ensure that GSD's noon intraday CFR is commensurate with a participant's risk profile by appropriately reflecting the exposure that may result from intraday cash substitutions and early unwind of interbank allocations.

(B) Clearing Agency's Statement on Burden on Competition

As noted above, the EUIC for cash substitutions will apply to both the repo side (cash borrower) and the reverse repo side (cash lender) of the transaction and the EUIC for the early unwind of interbank allocations will apply to the reverse repo side only. As such, it should be noted that the reverse repo side is subject to the EUIC notwithstanding its inability to control the substitutions or the early unwind. The EUIC applies to the reverse repo side because although they do not initiate the cash substitutions or the early unwind of interbank allocations, these events change the reverse repo participants' risk profile and as a result, their noon intraday CFR could be unduly reduced. GSD has discussed the EUIC with the participants that are likely to be materially impacted by this proposed charge. These participants did not express concerns about the EUIC. The EUIC for the early unwind of interbank allocations will only apply to the reverse repo side (cash lender) since it is only the reverse side whose lockup is unwound early. The securities subject to the early unwind are not returned to the repo side (cash borrower) in connection with the early unwind of interbank allocations. The early unwind of interbank allocations is performed on the reverse repo side to ensure that the underlying collateral is available to the repo side at its settlement bank. Cash is returned to the reverse repo side and thus unwound early.

GSD believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the EUIC adjusts the noon intraday CFR when the CFR may have been unduly reduced due to cash substitutions or early unwind of interbank allocations. Thus, the proposal will allow GSD to adjust the noon intraday CFR with the EUIC in order to more accurately capture the risks presented to the clearing agency, and will help to ensure that GSD is not under margined during the time period covered by the noon intraday CFR. In this way, the proposal contributes to the goal of financial stability in the event of participant default, and will render not unreasonable or inappropriate any burden on competition that the changes could be regarded as imposing. Furthermore, GSD believes that the proposal will help facilitate the prompt and accurate clearance and settlement of securities transactions and protect investors and the public interest, in furtherance of the requirements of the Act applicable to GSD. As such, to the extent there remains any perceived burden on competition caused by the proposal, GSD believes that any such burden would be both necessary and appropriate in furtherance of the purposes of the Act, in particular Section 17A(b)(3)(F) of the Act, as described above.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule changes have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commissions Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FICC–2014–01 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–FICC–2014–01. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for

inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.dtcc.com/legal/sec-rule-filings.aspx.*

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–FICC–2014–01 and should be submitted on or before September 19, 2014.

For the Commission by the Division of Trading and Markets, pursuant to delegated Authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–20557 Filed 8–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72909; File No. SR–CHX–2014–13]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a General Prohibition Against Affiliation Between the Exchange and any Participant

August 25, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on August 18, 2014, the Chicago Stock Exchange, Inc. (''CHX'' or the ''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to adopt Article 3, Rule 20 that establishes a general prohibition against affiliation between the Exchange and any Participants. The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in the Commission's Public Reference Room.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for the proposed rule changes 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 CHX 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 Changes

1. Purpose

The Exchange proposes to adopt Article 3, Rule 20 (No Affiliation between Exchange and any Participant). The purpose of the proposed rule is to guard against any possibility that the Exchange may exercise, or forbear to exercise, regulatory authority with respect to an affiliated Participant[4] in a manner that is influenced by commercial considerations and to provide an opportunity for Commission review of certain proposed affiliations.

Specifically, the proposed rule provides that the Exchange or any entity with which it is affiliated shall not, directly or indirectly, acquire or maintain an ownership interest in a Participant in the absence of an effective filing under Section 19(b) of the Act.[5] The proposed rule defines ''affiliate'' with reference to Rule 12b–2 under the Act.[6] In addition, in order to make it clear that the obligation to avoid affiliations applies to both the Exchange and its Participants, the proposed rule also provides that a Participant shall not be or become an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange, in the absence of an effective filing under Section 19(b) of the Act.[7]

Moreover, the proposed rule provides that nothing in this proposed rule shall prohibit a Participant or its affiliate from acquiring or holding an equity interest in CHX Holdings, Inc. that is permitted by the ownership and voting limitation contained in the Certificate of Incorporation of CHX Holdings, Inc. Specifically, paragraph (b)(ii)(B) of the fifth section of the Certificate of Incorporation of CHX Holdings, Inc. provides that no Person, either alone or together with its Related Persons,[8] who holds a trading permit of the Exchange (*i.e.,* a Participant), may own, directly or indirectly, of record or beneficially shares of stock of CHX Holdings, Inc. representing in the aggregate more than twenty percent (20%) of the then outstanding votes entitled to be cast on any matter.

The proposed rule also limits possible expansive interpretations of the term ''affiliate'' by providing that nothing in the proposed rule shall prohibit a Participant from being or becoming an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange, solely by reason of such Participant or any officer, director, manager, managing member, partner or affiliate of such Participant being or becoming either (a) a Director (as such term is defined in the Bylaws of the Exchange) pursuant to the Bylaws of the Exchange, or (b) a Director serving on the Board of Directors of CHX Holdings, Inc.

The Exchange believes that it is currently in compliance with the proposed rule. The Exchange and CHXBD, LLC are both wholly owned subsidiaries of CHX Holdings, Inc. (together ''CHX affiliates''). None of the CHX affiliates have an ownership interest in a Participant and neither CHX Holdings, Inc. nor CHXBD, LLC are Participants.[9] Moreover, although some

[4] CHX Article 1, Rule 1(s) provides, in pertinent part, that '''Participant' means, except as otherwise described in these Rules, any Participant Firm that hold a valid Trading Permit'' and that a ''Participant shall be considered a 'member' of the Exchange for the purposes of the Exchange Act.''

[5] 15 U.S.C. 78s(b).

[6] Rule 12b–2 under the Act provides the following definition of ''affiliate'': *Affiliate.* An ''affiliate'' of, or a person ''affiliated'' with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. 17 CFR 240.12b–2.

[7] 15 U.S.C. 78s(b).

[8] Paragraph (a)(ii) of the fifth section of the Certificate of Incorporation of CHX Holdings, Inc. states as follows: The term ''Related Persons'' shall mean (A) with respect to any Person, all ''affiliates'' and ''associates'' of such Persons (as such terms are defined in Rule 12b–2 under the Securities and Exchange Act of 1934, as amended); (B) with respect to any Person that holds a permit issued by the Chicago Stock Exchange, Inc. to trade securities on the Chicago Stock Exchange (''Participant''), any broker or dealer with which a Participant is associated; and (C) any two or more Persons that have any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of the Corporation.

[9] CHXBD, LLC is a registered broker-dealer and member of the Financial Industry Regulatory Authority. However, CHXBD, LLC is not yet a Participant of the Exchange nor is it operational. The Exchange intends to operate CHXBD, LLC as an outbound routing facility of the Exchange only upon adoption of effective rules pursuant to Rule 19b–4 under the Act and notice to Participants. *See*

Continued

Participants currently hold an equity interest in CHX Holdings, Inc., as currently permitted and limited by the Certificate of Incorporation of CHX Holdings, Inc., the Exchange does not believe that any of these Participants are affiliated with the Exchange or any affiliate of the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change to adopt a general prohibition of affiliation between the Exchange and any Participant is consistent with Section 6(b) of the Act in general [10] and furthers the objectives of Section 6(b)(5) in particular,[11] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and, in general, by protecting investors and the public interest. Specifically, the proposed rule would guard against any possibility that the Exchange may exercise, or forbear to exercise, regulatory authority with respect to an affiliated Participant in a manner that is influenced by commercial considerations by (1) establishing a general prohibition on affiliation between the Exchange and Participants and (2) requiring an effective filing pursuant to Section 19(b) of the Act [12] before the Exchange acquires or maintains an ownership interest in a Participant or a Participant becomes affiliated with the Exchange or any of its affiliates.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change implicates any competitive issues because the proposed rule only addresses the relationship between the Exchange and its Participants.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Changes 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) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that it has previously expressed concern about the potential for unfair competition and conflicts of interest between an exchange's self-regulatory obligations and its commercial interests that could exist if an exchange were to otherwise become affiliated with one of its members, as well as the potential for unfair competitive advantage that the affiliated member could have by virtue of informational or operational advantages, or the ability to receive preferential treatment.[15] The Exchange states the purpose of the proposed rule is to guard against any possibility that the Exchange may exercise, or forbear to exercise, regulatory authority with respect to an affiliated Participant in a manner that is influenced by commercial considerations and to provide an opportunity for Commission review of certain proposed affiliations,[16] and that waiver of the 30-day operative delay will allow the Exchange to provide immediate transparency concerning its position on affiliations with Participants.[17] The Commission also notes that the proposed rule is consistent with the rules of other national securities exchanges previously approved by the Commission.[18] For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[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.

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–CHX–2014–13 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–CHX–2014–13. 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

17 CFR 240.19b–4. In addition, CHXBD, LLC will only become a Participant of the Exchange pursuant to an effective filing under Section 19(b) of the Act. *See* 15 U.S.C. 78s(b).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] *See, e.g.,* Securities Exchange Act Release No. 58375 (August 18, 2008), 73 FR 49498 (August 21, 2008) (approving the registration of BATS Exchange as a national securities exchange) (''BATS Exchange Approval''), at 49502 n.90 and accompanying text.

[16] *See supra* note 4 and accompanying text.

[17] *See* SR–CHX–2014–13, Item 7.

[18] *See, e.g.,* BYX Rule 2.10 and Nasdaq Rule 2160(a); BATS Exchange Approval, *supra* note 15; and Securities Exchange Act Release No. 54170 (July 18, 2006), 71 FR 42149 (July 25, 2006) (approving Nasdaq's rule restricting affiliations between Nasdaq and its members).

[19] 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).

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 CHX. 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–CHX–2014–13 and should be submitted on or before September 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–20558 Filed 8–28–14; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Gold Horse International, Inc.; Order of Suspension of Trading

August 27, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Gold Horse International, Inc. because it has not filed any periodic reports since the period ended March 31, 2012.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on August 27, 2014, through 11:59 p.m. EDT on September 10, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–20736 Filed 8–27–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Clavis Technologies International Co., Ltd.; Order of Suspension of Trading

August 27, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Clavis Technologies International Co., Ltd. because it has not filed any periodic reports since the period ended September 30, 2011.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on August 27, 2014, through 11:59 p.m. EDT on September 10, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–20737 Filed 8–27–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Xinde Technology Company; Order of Suspension of Trading

August 27, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Xinde Technology Company because it has not filed any periodic reports since the period ended March 31, 2012.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on August 27, 2014, through 11:59 p.m. EDT on September 10, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–20768 Filed 8–27–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of China Wood, Inc., Order of Suspension of Trading

August 27, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of China Wood, Inc. because it has not filed any periodic reports since the period ended December 31, 2010.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on August 27, 2014, through 11:59 p.m. EDT on September 10, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–20753 Filed 8–27–14; 4:15 pm]

BILLING CODE 8011–01–P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of Meeting.

SUMMARY: The TVA Regional Resource Stewardship Council (RRSC) will hold a meeting on Wednesday, September 24, and Thursday, September 25, 2014, to consider various matters.

The RRSC was established to advise TVA on its natural resource stewardship activities. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.

The meeting agenda includes the following:

1. Introductions.
2. Updates on Natural Resources issues.
3. Presentations covering TVA's Dam Safety Management and TVA's Reservoir Operations Study

implementation and management of the river system to optimize regional benefits.

4. Public Comments.

5. Council Discussion and Advice.

The RRSC will hear opinions and views of citizens by providing a public comment session starting at 10:30 a.m., EST, on Thursday, September 25. Persons wishing to speak are requested to register at the door by 9:30 a.m. on Thursday, September 25 and will be called on during the public comment period. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Resource Stewardship Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT–9D, Knoxville, Tennessee 37902.

DATES: The public meeting will be held on Wednesday, September 24, from 8:00 a.m. to noon, and Thursday, September 25, from 8:00 a.m. to 11:45 a.m. EST.

ADDRESSES: The meeting will be held at Brasstown Valley Resort, 6321 U.S. Highway 76, Young Harris, Georgia 30582–2717 and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Beth Keel, 400 West Summit Hill Drive, WT–9 D, Knoxville, Tennessee 37902, (865) 632–6113.

Dated: August 25, 2014.

Joseph J. Hoagland,

Vice President, Stakeholder Relations, Tennessee Valley Authority.

[FR Doc. 2014–20580 Filed 8–28–14; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Tuesday, September 30 and Wednesday, October 1, 2014 from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the National Harbor 15 meeting room located on Level 3 of the Gaylord National Harbor Convention Center, 201 Waterfront Street, National Harbor, MD 20745

FOR FURTHER INFORMATION CONTACT: Ms. Heather Hemdal, ATPAC Executive Director, 600 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, September 30 and Wednesday, October 1, 2014 from 8:30 a.m. to 5:00 p.m.

The agenda for this meeting will cover a continuation of the ATPAC's review of present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures. It will also include:

1. Call for Safety Items
2. Approval of minutes of the previous meeting
3. Introduction of New Areas of Concern or Miscellaneous items
4. Items of Interest
5. Status updates to existing Areas of Concern
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify Ms. Heather Hemdal no later than September 23, 2014. Any member of the public may present a written statement to the ATPAC at any time at the address given above.

Issued in Washington, DC, on August 21, 2014.

Maurice Hoffman,

Acting Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 2014–20694 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–63]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 18, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0598 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC on August 21, 2014.

James M. Crotty,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0598.

Petitioner: Network Media Services, LLC DBA Applied Drone Technologies.

Section of 14 CFR: Parts 21 Subpart H, 45.23(b), 61.113(a) and (b), 91.7(a), 91.9(b)(2), 91.103(b), 91.109, 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a) and (b).

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate its fleet of small unmanned aircraft in motion picture or television operations, to conduct its own research and to develop economic platforms for law enforcement, first responders, and search and rescue.

[FR Doc. 2014–20416 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–61]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 18, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0591 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 21, 2014.

James M. Crotty,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0591.

Petitioner: Utility Aerial Services, Inc.

Section of 14 CFR: Parts 21 subpart H, 27, 45.23(b), 45.27(a), 61.113(a) and (b), 91.9(b)(2), 91.7(a), 91.103, 91.109(a), 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a) and (b).

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate small unmanned aircraft systems (sUAS) to perform utility-power generation inspections and patrols.

[FR Doc. 2014–20414 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–60]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 18, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0563 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DCbetween 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to

http://www.regulations.gov at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 21, 2014.

James M Crotty,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0563.

Petitioner: Vision Services Group, LLC.

Section of 14 CFR: parts 21.1(a)(1)(iii), 61.113(a), 91.9(b)(2), 91.203(a)(1) and (2), and 91.203(b).

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate a small unmanned aircraft system (sUAS) at or below 2,000 feet above ground level in designated, unpopulated areas to collect high quality, actionable data in an efficient manner.

[FR Doc. 2014–20415 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Savannah–Hilton Head International Airport, Savannah, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of Title 49, U.S.C. 47153(c), notice is being given that the FAA is considering a request from the Savannah Airport Commission to waive the requirement that a 0.18-acre parcel of surplus property, owned and operated by the Savannah Airport Commission and located adjacent to Georgia Department of Transportation property, be used for aeronautical purposes.

DATES: Comments must be received on or before *September 29, 2014.*

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Aimee A. McCormick, Program Manager, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Greg Kelly, Airport Director of Savannah–Hilton Head International Airport at the following address: 400 Airways Avenue, Savannah, GA 31408.

FOR FURTHER INFORMATION CONTACT: Aimee McCormick, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Suite 2–260, Atlanta, GA 30337–2747, (404) 305–7143. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the Savannah Airport Commission to release 0.18 acres of surplus property at the Savannah–Hilton Head International Airport. The property will be purchased with intent for public roadway improvements and take over of long term maintenance. The location of the the land relative to existing or anticipated aircraft noise contours greater than 65ldn are not considered to be an issue. The net proceeds from the sale of this property will be used for airport purposes. The proposed use of this property is compatible with airport operations.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Savannah–Hilton Head International Airport.

Issued in Atlanta, Georgia on August 19, 2014.

Larry F. Clark,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2014–20693 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0325]

Agency Information Collection Activities; New Information Collection Request: The Impact of Driver Compensation on Commercial Motor Vehicle Safety

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The primary mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving large trucks and buses. Toward that end, FMCSA initiated The Impact of Driver Compensation on Commercial Motor Vehicle Safety Survey.

The primary purpose of the study will be to analyze the possible unintended safety consequences of the various methods by which Commercial Motor Vehicle (CMV) drivers in the sample are compensated. Should the study show that there is a relationship between the methods drivers are paid and the methods' effect on safe driving performance, a potential benefit of the study will be to provide CMV carrier companies with information that will help them make more informed decisions about safe operations.

In addition to the primary purpose of the study, a number of other potentially potential confounding variables will be assessed. These variables include the following:

- Type of commercial motor vehicle operation (long-haul, short-haul, or line-haul) by size of carrier (very small, small, medium or large)
- Whether for-hire, private, or owner operated and whether the carrier can be characterized as a truckload, less-than-truckload, regional, tanker, or other type of carrier
- Number of power units
- Average length of haul
- Primary commodities carried
- Number of regular, full-time drivers the carrier employs
- Average driving experience, in years, of drivers working for the companies included in the sample

This data will be used to demonstrate possible relationships of variables as well as determine if the variables may contribute to unintended safety consequences. Unintended safety consequences include driver out-of-service rates, vehicle out-of-service rates, and crash rates. For the purposes of this study, ''commercial motor vehicle (CMV)'' will refer only to trucks and not include passenger vehicles such as buses.

DATES: We must receive your comments on or before October 28, 2014.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket

Number FMCSA–2014–0325 using any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Fax:* 1–202–493–2251.

• *Mail:* Docket Services; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 20590–0001.

• *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8-794.pdf.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Hallquist, Analysis, Research and Technology Division, Department of Transportation, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–1064; email: *theresa.hallquist@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The study will evaluate the relationship between property carrying motor carriers compensation methods and incidences of unsafe driving. In particular, the research team will determine if there is a potential relationship between method of driver compensation and safe driving behavior. This study will be conducted using an online questionnaire. Randomly selected non-passenger motor carriers will be notified by letter from the FMCSA that explains the study and elicits their participation. Participants will receive an email directing them to a Web site to complete the online questionnaire. This study will assist motor carriers and other stakeholders engaged in commercial vehicle safety by enabling them to make informed decisions regarding driver compensation as it relates to safe driving performance. The results of the study will be available to the public in 2015 and will be published on the FMCSA publications and reports Web site, *www.fmcsa.dot.gov.* No risks to individuals are anticipated as a result of the study.

Title: Evaluating the Relationship Between Commercial Motor Vehicle Drivers Compensation Methods and Incidences of Unsafe Driving.

OMB Control Number: 2126–00XX.

Type of Request: New collection.

Respondents: Safety managers, operations managers or owner operators of commercial motor carriers companies.

Estimated Number of Respondents: 2184.

Estimated Time per Response: Minimum response = 0.27 hour; maximum response = 1.02 hours.

Expiration Date: N/A. This is a new information collection.

Frequency of Response: Once.

Estimated Total Annual Burden: 1,354 hours [(1,164 very small and small carriers for Group 1 respondents × 0.27 hours = 314 hours) + (1,020 medium and large carriers for Group 2 respondents × 1.02 hours = 1,040 hours) = 1,354].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: August 25, 2014.

G. Kelly Regal,

Associate Administrator for Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2014–20639 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0237]

Agency Information Collection Activities; New Information Collection Request: Generic Clearance of Customer Satisfaction Surveys

AGENCY: FMCSA, DOT.

ACTION: Notice and request for comments.

SUMMARY: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, the Federal Motor Carrier Safety Administration (FMCSA) seeks to obtain OMB approval of a generic clearance to collect feedback on our service delivery. By 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.

DATES: We must receive your comments on or before October 28, 2014.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2014–0237 using any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Fax:* 1–202–493–2251.

• *Mail:* Docket Services; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 20590–0001.

• *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–

140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8-794.pdf.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Ronk, Program Manager, FMCSA, Office of Enforcement and Program Delivery, Outreach Division/MC–ESO. Telephone (202) 366–1072; or email *brian.ronk@dot.gov.* Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

Mr. Jeff Loftus, Supervisory Transportation Specialist, Technology Division/MC–RRT, Office of Analysis, Research and Technology, telephone (202) 385–2363; or email *jeff.loftus@dot.gov,* Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background: Executive Order 12862 ''Setting Customer Service Standards,'' directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector (58 FR 48257, Sept. 11, 1993). In order to work continuously to ensure that our programs are effective and meet our customers' needs, FMCSA seeks to obtain OMB approval of a generic clearance to collect qualitative feedback from our customers on our service delivery. The surveys covered in this generic clearance will provide a means for FMCSA to collect this data directly from our customers. 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 of communication, training or changes in operations that 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.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management and any release outside the agency must indicate the qualitative nature of the information;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalized to the population of study.

Feedback collected under this generic clearance provides useful information, but does 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 nonresponse 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. As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Title: Generic Clearance of Customer Satisfaction Surveys.

OMB Control Number: 2126–New.

Type of Request: New information collection request.

Respondents: State and local agencies, general public and stakeholders; original equipment manufacturers (OEM) and suppliers to the commercial

motor vehicle (CMV) industry; fleets, owner-operators, state CMV safety agencies, research organizations and contractors; news organizations and safety advocacy groups.

Estimated Number of Respondents: 5,900.

Estimated Time per Response: Range from 10–120 minutes.

Expiration Date: N/A. This is a new ICR.

Frequency of Response: Generally, on an annual basis.

Estimated Total Annual Burden: 5,274.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: August 18, 2014.

G. Kelly Regal,

Associate Administrator, Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2014–20640 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

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

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant Daimler Trucks North America's (Daimler) application for an exemption for a Daimler driver to drive commercial motor vehicles (CMV) in the United States without possessing a commercial driver's license (CDL) issued by one of the States. The driver is Dr. Wolfgang Bernhard, head of the Daimler Trucks and Bus Division, who will test-drive Daimler vehicles on U.S. roads to better understand product requirements for these vehicles in ''real world'' environments and verify results. He holds a valid German CDL but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes that the process for obtaining a German-issued CDL is comparable to or is effective as the U.S. CDL requirements and ensures that this driver will likely achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: This exemption is effective August 29, 2014 and expires August 29, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Legal Basis

The Secretary of Transportation (the Secretary) has the authority to grant exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or § 31136 of title 49, United States Code, to a person(s) seeking regulatory relief (49 U.S.C. 31136(e), and 31315(b)) as added by Section 4007(a) of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107, 401, June 9, 1998)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. Exemptions may be granted for a period of up to 2 years and may be renewed.

The FMCSA Administrator has been delegated authority under 49 CFR 1.87(e)(1) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313 and subchapters I and III of chapter 311, relating, respectively, to the commercial driver's license program and to commercial motor vehicle (CMV) programs and safety regulation.

Background

In the July 22, 2014, **Federal Register** (79 FR 42626), FMCSA granted Daimler and one of its drivers a similar exemption. Prior to that, in the May 25, 2012, **Federal Register** (77 FR 31422) FMCSA granted a similar exemption for two of their other test drivers. These individuals each held a valid German CDL but lacked the U.S. residency necessary to obtain a CDL in the United States. FMCSA concluded that the process for obtaining a German CDL is comparable to or as effective as the U.S. CDL requirements and ensures that these drivers will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption. These three drivers were not reported to be involved in any crashes or other safety-related incidents.

Daimler Application for Exemption

Daimler applied for an exemption for Dr. Wolfgang Bernhard from 49 CFR 383.23, requiring drivers operating CMVs to have a CDL issued by one of the States. Notice of the application was published on July 2, 2014 (79 FR 37839). Five comments were received which were mixed in support or opposition to the application for exemption for Dr. Bernhard, however no substantive comments were received. A copy of the Daimler request is in the docket identified at the beginning of this notice. The exemption allows Dr. Wolfgang Bernhard to operate CMVs to support Daimler field tests to meet future vehicle safety and environmental requirements and to promote the development of technology and advancements in vehicle safety systems and emissions reductions. He will typically drive for no more than 6 hours per day for 2 consecutive days, and 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis.

Section 383.21 requires CMV drivers in the United States to have a CDL issued by a State. Dr. Bernhard is a citizen and resident of Germany. Only residents of a State can apply for a CDL. Without the exemption, Dr. Bernhard would not be able to test-drive Daimler prototype CMVs on U.S. roads.

Dr. Bernhard holds a valid German CDL and is an experienced operator of CMVs. In the application for exemption, Daimler also submitted documentation showing his safe German driving record.

Method To Ensure an Equivalent or Greater Level of Safety

According to Daimler, the requirements for a German-issued CDL ensure that the same level of safety is met or exceeded as if these drivers had a CDL issued by one of the States. Dr. Bernhard is familiar with the operation of CMVs worldwide and will be accompanied at all times by a driver who holds a U.S.-issued CDL and is

familiar with the routes to be traveled. FMCSA has determined that the process for obtaining a CDL in Germany is comparable to that for obtaining a CDL issued by one of the States and adequately assesses the driver's ability to safely operate CMVs in the United States.

FMCSA Decision

Based upon the merits of this application, including Dr. Bernhard's extensive driving experience and safety record, and the fact that he has successfully completed the requisite training and testing to obtain a German CDL, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

Terms and Conditions for the Exemption

FMCSA grants Daimler and Dr. Wolfgang Bernhard an exemption from the CDL requirement in 49 CFR 383.23 to allow Dr. Bernhard to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399), (2) the driver must be in possession of the exemption document and a valid German CDL, (3) the driver must be employed by and operating the CMV within the scope of his duties for Daimler, (4) Daimler must notify FMCSA within 5 business days in writing of any accident, as defined in 49 CFR 390.5, involving this driver, and (5) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Dr. Bernhard fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

Issued on: August 21, 2014.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–20636 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–23773; FMCSA–2008–0106; FMCSA–2010–0082; FMCSA–2010–0161; FMCSA–2012–0106; FMCSA–2012–0159; FMCSA–2012–0214]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 14 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective October 6, 2014. Comments must be received on or before September 29, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2006–23773; FMCSA–2008–0106; FMCSA–2010–0082; FMCSA–2010–0161; FMCSA–2012–0106; FMCSA–2012–0159; FMCSA–2012–0214], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- 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.
- Hand Delivery or Courier: 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.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 14 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 14 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Ramon Adame (IL)
Harold J. Bartley, Jr. (KY)
Joel W. Bryant (LA)
Donald S. Dickerson (WV)
Curtis E. Firari (WI)
Ronald M. Green (OH)
William D. Holt (AZ)
Charles S. Huffman (KS)
Daniel W. Johnson (NY)
Danny W. Nuckles (NY)
Philip N. Polcastro (NY)
Matias P. Quintanilla (CA)
Ronney L. Rogers (WA)
Kirk Scott (CT)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 14 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (71 FR 6826; 71 FR 19602; 73 FR 35194; 73 FR 35200; 73 FR 36955; 73 FR 48273; 73 FR 48275; 75 FR 25917; 75 FR 36778; 75 FR 39725; 75 FR 39727; 75 FR 44050; 75 FR 44051; 75 FR 61833; 77 FR 33017; 77 FR 36336; 77 FR 38384; 77 FR 44708; 77 FR 46793; 77 FR 46795; 77 FR 52388; 77 FR 52389; 77 FR 56262; 77 FR 59245). Each of these 14 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2006–23773; FMCSA–2008–0106; FMCSA–2010–0082; FMCSA–2010–0161; FMCSA–2012–0106; FMCSA–2012–0159; FMCSA–2012–0214), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2006–23773; FMCSA–2008–0106; FMCSA–2010–0082; FMCSA–2010–0161; FMCSA–2012–0106; FMCSA–2012–0159; FMCSA–2012–0214'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2006–23773; FMCSA–2008–0106; FMCSA–2010–0082; FMCSA–2010–0161; FMCSA–2012–0106; FMCSA–2012–0159; FMCSA–2012–0214'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: August 20, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–20638 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0010]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 35 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before September 29, 2014. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0010 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *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.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 35 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Ronald A. Bolyard

Mr. Bolyard, 55, has a macular scar in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, ''In my opinion Ronald has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Bolyard reported that he has driven tractor-trailer combinations for 23 years, accumulating 2.76 million miles. He holds a Class A CDL from West Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jackson C. Braithwaite

Mr. Braithwaite, 55, has complete loss of vision in his left eye due to a traumatic incident in 2004. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2014, his optometrist stated, ''This letter certifies that Jackson Braithwaite, in my medical opinion, has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Braithwaite reported that he has driven straight trucks for 12 years, accumulating 210,000 miles, and tractor-trailer combinations for 25 years, accumulating 1.125 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 4 mph.

Howard T. Bubel

Mr. Bubel, 68, has had a retinal detachment causing macular degeneration in his left eye since 2011. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''As my last letter stated, in my professional opinion, Howard should be granted an exemption from the visual standard (the state has already done this). He should be allowed to haul his own livestock.'' Mr. Bubel reported that he has driven tractor-trailer combinations for 15 years, accumulating 45,000 miles. He holds a Class A CDL from North Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Raymond E. Burrus

Mr. Burrus, 57, has had refractive amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''It is my opinion that Ray meets all the visual requirements to operate a commercial vehicle.'' Mr. Burrus reported that he has driven straight trucks for 30 years, accumulating 300,000 miles, and tractor-trailer combinations for 16 years, accumulating 320,000 miles. He holds a Class A CDL from Colorado. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dionicio Carrera

Mr. Carrera, 40, has had refractive amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2014, his optometrist stated, ''I certify that, in my medical opinion, this patient has sufficient vision to operate a commercial motor vehicle.'' Mr. Carrera reported that he has driven straight trucks for 22 years, accumulating 176,000 miles, and tractor-trailer combinations for 15 years, accumulating 1.44 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lee A. Clason

Mr. Clason, 47, has had amblyopia and a chorioretinal scar in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''However, right eye continues to do well and Lee's vision, including peripheral vision, is acceptable for his driver's license,

including commercial vehicle.'' Mr. Clason reported that he has driven straight trucks for 10 years, accumulating 400,000 miles, and tractor-trailer combinations for 30 years, accumulating 1.8 million miles. He holds a Class A CDL from Nebraska. His driving record for the last 3 years shows one crash, to which he did not contribute and was not cited, and no convictions for moving violations in a CMV.

Jeff W. Claussen

Mr. Claussen, 41, has had refractive amblyopia in his left eye since birth. The visual acuity in his right eye is 20/15, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''. . . I believe that Mr. Claussen has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Claussen reported that he has driven buses for 15 years, accumulating 168,750 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David A. Coburn, Sr.

Mr. Coburn, 57, has a prosthetic left eye in his left eye due to a traumatic incident in 1979. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist stated, ''In my medical opinion, Mr. Coburn has sufficient vision to operate a commercial vehicle with the proper use of prescription spectacles.'' Mr. Coburn reported that he has driven straight trucks for 10 years, accumulating 150,000 miles, and buses for 8 years, accumulating 80,000 miles. He holds a Class B CDL from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Edward Cunningham

Mr. Cunningham, 57, has a corneal scar in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''The patient has had his CDL for several years. He has been able to maintain his CDL and seems to have no apparent problems driving due to his vision. I think he should be able to maintain his current driving status.'' Mr. Cunningham reported that he has driven straight trucks for 36 years, accumulating 630,000 miles, and tractor-trailer combinations for 8 years, accumulating 800,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eric P. Demers

Mr. Demers, 37, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''I have no reason to believe Mr. Demers' vision is anything other than sufficient to operate a commercial vehicle.'' Mr. Demers reported that he has driven straight trucks for 15 years, accumulating 720,000 miles, and tractor-trailer combinations for 3 years, accumulating 450,000 miles. He holds a Class A CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Martin H. Duncan

Mr. Duncan, 47, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his ophthalmologist stated, ''Mr. Duncan has a normal eye examination. His amblyopia has been present since childhood, and will not affect his ability to perform the driving tasks required to operate a commercial vehicle.'' Mr. Duncan reported that he has driven straight trucks for 3.5 years, accumulating 91,000 miles, and tractor-trailer combinations for 9.5 years, accumulating 247,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald D. Holshouser

Mr. Holshouser, 54, has had a retinal detachment in his left eye since 2012. The visual acuity in his right eye is 20/16, and in his left eye, hand motion. Following an examination in 2014, his ophthalmologist stated, ''I certify that, in my medical opinion, the applicant's visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and that the applicant's condition will not adversely affect his/her ability to operate a commercial motor vehicle safely.'' Mr. Holshouser reported that he has driven straight trucks for 34 years, accumulating 884,000 miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Oscar Juarez

Mr. Juarez, 38, has macular scars of the retina in his left eye due to a traumatic incident in 1998. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his ophthalmologist stated, ''In my opinion, given that his visual acuity has been stable for many years, his vision is sufficient to perform the driving tasks that are required to operate a commercial vehicle.'' Mr. Juarez reported that he has driven straight trucks for 19 years, accumulating 19,000 miles, and tractor-trailer combinations for 18 years, accumulating 9,000 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kelly R. Knopf, Sr.

Mr. Knopf, 51, has had complete loss of vision in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''In my opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Knopf reported that he has driven straight trucks for 24 years, accumulating 249,600 miles. He holds an operator's license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Edward J. Kosior

Mr. Kosior, 69, has had strabismic amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his ophthalmologist stated, ''It is in my medical opinion, [sic] that Edward Kosior has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Kosior reported that he has driven buses for 30 years, accumulating 540,000 miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Todd A. Krough

Mr. Krough, 49, has a prosthetic left eye due to a traumatic incident in 1983. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''His right eye has no problems at all but it is within your discretion whether monocular vision is sufficient for operating a commercial vehicle. He has

been doing so for 30 years with his current condition so seems capable of doing so adequately.'' Mr. Krough reported that he has driven straight trucks for 10 years, accumulating 20,000 miles, and tractor-trailer combinations for 20 years, accumulating 100,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lester E. Lathrop III

Mr. Lathrop, 51, has had myopic astigmatism and amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his optometrist stated, ''In my medical opinion, Les has sufficient vision to perform driving tasks required to operate a commercial.'' Mr. Lathrop reported that he has driven straight trucks for 24 years, accumulating 240,000 miles, and tractor-trailer combinations for 14 years, accumulating 140,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mathew A. Lind

Mr. Lind, 24, has retinal sclopeteria in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, ''I last examined Mathew Lind on May 8, 2014. He has been a patient at our practice since 2003 when he presented after getting shot with a paintball gun in his left eye resulting in retinal sclopeteria . . . I feel that he is fully capable of safely operating a commercial vehicle and performing all driving tasks.'' Mr. Lind reported that he has driven straight trucks for 3 years, accumulating 900 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Frazier A. Luckerson

Mr. Luckerson, 57, has complete loss of vision in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Mr. Luckerson has full use of his left eye and his vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Luckerson reported that he has driven straight trucks for 25 years, accumulating 750,000 miles. He holds an operator's license from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Carl M. Lude

Mr. Lude, 57, has had macular degeneration in his left eye since 2003. The visual acuity in his right eye is 20/40, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''Based on his visual fields and his visual acuity in the right eye, Carl has sufficient vision to perform driving tasks required to operate a commercial vehicle if binocularity is not a critical factor.'' Mr. Lude reported that he has driven straight trucks for 7 years, accumulating 1,050 miles. He holds a Class C CDL from Maine. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ross A. Miceli II

Mr. Miceli, 38, has had a retinal detachment in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2014, his optometrist stated, ''In my medical opinion, Ross does have sufficient vision to operate a commercial vehicle.'' Mr. Miceli reported that he has driven straight trucks for 15 years, accumulating 1.5 million miles, and tractor-trailer combinations for 4 years, accumulating 140,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Timothy L. Miller

Mr. Miller, 36, has had refractive amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''In my medical opinion Mr. Miller has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Miller reported that he has driven straight trucks for 2.5 years, accumulating 105,000 miles, tractor-trailer combinations for 1.5 years, accumulating 142,500 miles, and buses for 9 years, accumulating 22,500 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald L. Minney

Mr. Minney, 49, has had esotropia with secondary amblyopia in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Even though he has reduced acuity in the right eye and bilateral color vision deficiency, it is my professional opinion that Mr. Minney is able to safely continue operating with a commercial vehicle license.'' Mr. Minney reported that he has driven straight trucks for 30 years, accumulating 750,000 miles. He holds an operator's license from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Phillip L. Neff

Mr. Neff, 57, has complete loss of vision in his right eye due to a traumatic incident in 1975. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion, Mr. Neff has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Neff reported that he has driven straight trucks for 39 years, accumulating 136,500 miles, and tractor-trailer combinations for 39 years, accumulating 136,500 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Brian S. Nelson

Mr. Nelson, 56, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, ''He has a history of amblyopia in the left eye and left esotropia. In my opinion, he can safely perform the driving tasks needed to operate a commercial motor vehicle.'' Mr. Nelson reported that he has driven straight trucks for 5 years, accumulating 25,000 miles. He holds a Class B CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Peter D. Rosenkranse III

Mr. Rosenkranse, 55, has had exotropia, a cataract, and a retinal scar in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I certify in my medical opinion, Mr Rosenkranse has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Rosenkranse reported that he has driven tractor-trailer combinations for 35 years,

accumulating 147,700 miles. He holds a Class AM CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Antonio Sanchez

Mr. Sanchez, 57, has a prosthetic left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''Mr. Sanchez's examination proves that he is visually efficient [sic] to operate a commercial vehicle.'' Mr. Sanchez reported that he has driven tractor-trailer combinations for 20 years, accumulating 40,000 miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lawrence P. Siegler

Mr. Siegler, 58, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2014, his optometrist stated, ''I certify that Lawrence Siegler in my opinion can safely perform the driving tasks required to operate a commercial vehicle based on the above information as well as what was found during his eye exam.'' Mr. Siegler reported that he has driven straight trucks for 20 years, accumulating 30,000 miles, and tractor-trailer combinations for 40 years, accumulating 2.16 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

Rick J. Smart

Mr. Smart, 56, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I don't think his vision deficiency in his right eye interferes with his ability to safely operate a commercial vehicle.'' Mr. Smart reported that he has driven straight trucks for 6 years, accumulating 120,000 miles. He holds a Class A CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Clifford W. Smith

Mr. Smith, 62, has had complete loss of vision in his left eye since 1971. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I certify that in my medical opinion, Mr. Smith has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Smith reported that he has driven straight trucks for 39 years, accumulating 585,000 miles, and buses for 1 year, accumulating 1,000 miles. He holds an operator's license from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert L. Strange

Mr. Strange, 45, has had a retinal detachment in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Mr. Strange appeared for a DOT visual evaluation on December 3, 2013. His ophthalmologist stated that Mr. Strange's visual impairment does not compromise his ability to operate a motor vehicle safely. Mr. Strange reported that he has driven straight trucks for 8 years, accumulating 192,000 miles, and tractor-trailer combinations for 14 years, accumulating 336,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David L. Von Hagen

Mr. Von Hagen, 70, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his optometrist stated, ''In my medical opinion, David Von Hagen has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Von Hagen reported that he has driven straight trucks for 38 years, accumulating 2.66 million miles, and tractor-trailer combinations for 34 years, accumulating 2.38 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald Wallace

Mr. Wallace, 57, has a corneal scar, aphakia, and secondary to exotropia in his right eye due to a trauma during childhood. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''At this time, I feel Mr. Wallace is visually capable of maintaining his current CDL license that he has held for the last 12 years.'' Mr. Wallace reported that he has driven straight trucks for 10 years, accumulating 80,000 miles, and tractor-trailer combinations for 10 years, accumulating 80,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Loran J. Weiler

Mr. Weiler, 56, has had a retinal detachment in his right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''With Loran's overall visual acuity of 20/20, visual fields of greater than 120 degrees and color vision being normal, I do consider him to have sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Weiler reported that he has driven straight trucks for 36 years, accumulating 180,000 miles, and tractor-trailer combinations for 36 years, accumulating 180,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows one crash, to which he did not contribute and was not cited, and no convictions for moving violations in a CMV.

Frederick J. Zuech

Mr. Zuech, 60, has a prosthetic right eye due to a traumatic incident in 1979. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Pt's OS has full visual field to 120 degrees. PT also has full color vision in the OS based on Ishihara testing. Pt's OS is healthy with no pathology noted. Based on all measurements, I do feel he is safe to continue to perform the driving tasks necessary to operate a commercial vehicle.'' Mr. Zuech reported that he has driven straight trucks for 42 years, accumulating 1.05 million miles, and tractor-trailer combinations for 40 years, accumulating 200,000 miles. He holds a Class AM CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You

may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

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Viewing Comments and Documents

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Dated: August 21, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–20625 Filed 8–28–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 26, 2014.

The Department of the Treasury will submit 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, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before September 29, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collections, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Bureau of the Fiscal Service

OMB Number: 1510–0004.

Type of Review: Revision of a currently approved collection.

Title: Schedule of Excess Risks.

Form: FMS 285–A.

Abstract: This information is collected from insurance companies to assist the Treasury Department in determining whether a certified or applicant company is solvent and able to carry out its contracts, and whether the company is in compliance with Treasury excess risk regulations for writing Federal surety bonds.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden Hours: 5,600.

OMB Number: 1510–0047.

Type of Review: Revision of a currently approved collection.

Title: Checklists of Filings for Certified Surety and/or Certified Reinsuring Companies and for Admitted Reinsurer Companies.

Abstract: This information is collected from insurance companies to assist the Treasury Department in determining acceptability of the companies applying for a Certificate of Authority to write or reinsure Federal surety bonds.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden Hours: 540.

OMB Number: 1510–0061.

Type of Review: Revision of a currently approved collection.

Title: CMIA Annual Report and Interest Calculation Cost Claims.

Abstract: The Cash Management Improvement Act requires that states and territories report interest owed to and from the Federal government for major federal assistance programs on an annual basis. The data is used by Treasury and other Federal agencies to verify state and federal interest claims, to assess state and federal cash management practices and to exchange amounts of interest owed.

Affected Public: Federal government; State, local, or tribal governments.

Estimated Annual Burden Hours: 22,036.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–20632 Filed 8–28–14; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 26, 2014.

The Department of the Treasury will submit 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, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before September 29, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–2246.

Type of Review: Extension of a currently approved collection.

Title: Form 8957—Foreign Account Tax Compliance Act (FATCA) Registration; Form 8966—FATCA Report.

Form: Form 8957, Form 8966.

Abstract: Form 8957 is used by a financial institution to register itself and its branches, if any, as a participating foreign financial institution (PFFI), a registered deemed-compliant foreign financial institution (RDCFFI), a limited foreign financial institution (Limited FFI), a limited branch (Limited Branch), or a sponsoring entity (Sponsoring Entity). Form 8966 is for reporting purposes and is to be filed by foreign financial institutions to report foreign reportable amounts paid to their current account holders that are nonparticipating FFIs. Form 8966 is further to be filed by a withholding agent to report U.S. owners of certain foreign entities regarding withholdable payments made to these entities.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden Hours: 4,063,856.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–20633 Filed 8–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 26, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before September 29, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

United States Mint

OMB Number: 1525–0012.

Type of Review: Extension of a currently approved collection.

Title: Generic Clearance for Voluntary Surveys to Implement E.O. 12862.

Abstract: This is a request for a three-year generic clearance for the United States Mint to conduct customer satisfaction and opinion surveys or focus group interviews. The data collection will allow the Mint to comply with Executive Order 12862 and assess the acceptance of and potential demand for current and future Mint products, and the needs and desires of customers for more efficient, economical services.

Affected Public: Individuals or households; Businesses or other for-profits.

Estimated Total Burden Hours: 37,809.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–20575 Filed 8–28–14; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to the Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals and two entities whose property and interests in property have been unblocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (SDN List) of the two individuals and two entities identified in this notice whose property and interests in property were blocked pursuant to the Kingpin Act, is effective on August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2420.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site at *www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On December 3, 1999, the Kingpin Act was signed into law by the President of the United States. The Kingpin Act provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and to the benefits of trade and transactions involving U.S. persons and entities.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property or interests in property, subject to U.S. jurisdiction, of persons or entities found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; and/or (3) playing a significant role in international narcotics trafficking.

On August 20, 2014, the Director of OFAC removed from the SDN List the two individuals and two entities listed below, whose property and interests in property were blocked pursuant to the Kingpin Act:

Individuals

1. OEZER-SHAYESTEH, Guelin, 80331 Muenchen, Bayern, Germany; DOB 15 Feb 1962; citizen Germany (individual) [SDNTK].

2. OROZCO CARDENAS, Adrian, Privada Colonia del Valle 7001, Fraccionamiento Residencial Agua Caliente, Tijuana, Baja California, Mexico; Calle Circunvalacion Sur 273–5, Colonia Las Fuentes 45070, Zapopan, Jalisco, Mexico; c/o Farmacia Vida Suprema, S.A. DE C.V., Tijuana, Baja California, Mexico; c/o Distribuidora

Imperial De Baja California, S.A. de C.V., Tijuana, Baja California, Mexico; c/o Administradora De Inmuebles Vida, S.A. de C.V., Tijuana, Baja California, Mexico; c/o ADP, S.C., Tijuana, Baja California, Mexico; c/o Forpres, S.C., Tijuana, Baja California, Mexico; DOB 14 Sep 1953; POB Distrito Federal, Mexico (individual) [SDNTK].

Entities:

1. ESTRUCTURAS METALICAS, CIRCULARES Y ORTOGONALES (a.k.a. ''EMCO''), Aldea El Durazno Lote 12 Kilometro 8.5, Antigua Ruta A San Pedro Ayampuc, Chinautla, Guatemala; Registration ID 45703 (Guatemala) [SDNTK].

2. OPERADORA CORPORATIVA DE NEGOCIOS (a.k.a. ''OCN''), Diagnol 6 No. 16–01, Zona 10, Guatemala City, Guatemala [SDNTK].

Dated: August 20, 2014.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–20603 Filed 8–28–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of 3 individuals and 5 entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the three individuals and five entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On August 20, 2014, the Director of OFAC designated the following 3 individuals and 5 entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. VALLE VALLE, Miguel Arnulfo; DOB 02 Jul 1972; POB Florida, Copan, Honduras; nationality Honduras (individual) [SDNT].

2. VALLE VALLE, Luis Alonso; DOB 29 Jun 1969; POB La Encarnacion, Octepeque, Honduras; nationality Honduras (individual) [SDNT].

3. VALLE VALLE, Jose Reynerio; DOB 15 Jan 1974; nationality Honduras (individual) [SDNT].

Entities

4. FINCA LOS TRES REYES, Aldea Espiritu Santo, Municipio de Florida, Departamento de Copan, Honduras [SDNT].

5. INVERSIONES LUISITO, Aldea Espíritu Santo, Municipio de Florida, Departamento de Copan, Honduras [SDNT].

6. INVERSIONES VALLE, Aldea Espíritu Santo, Municipio de Florida, Departamento de Copan, Honduras [SDNT].

7. INVERSIONES YOSARY, Honduras; Aldea Espíritu Santo, Municipio de Florida, Departamento de Copan, Honduras [SDNT].

8. LOS VALLES DRUG TRAFFICKING ORGANIZATION (a.k.a. VALLE VALLE DRUG TRAFFICKING ORGANIZATION) [SDNT].

Dated: August 20, 2014.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–20608 Filed 8–28–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of 16 individuals whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers''.

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (''SDN List'') of the 16 individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are

available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the ''Order''). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The foreign persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and the Secretary of State: (a) to play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On August 20, 2014, the Director of OFAC removed from the SDN List the 16 individuals listed below, whose property and interests in property were blocked pursuant to the Order:

Individuals

1. ARIZA CHAVEZ, Elder, c/o SUPERGEN LTDA., Bucaramanga, Colombia; DOB 22 Jul 1972; Cedula No. 79183205 (Colombia); Passport 79183205 (Colombia) (individual) [SDNT].
2. ASTAIZA TACUMA, Luz Marina, c/o GESTORA MERCANTIL S.A., Cali, Colombia; c/o COMPANIA DE FOMENTO MERCANTIL S.A., Cali, Colombia; c/o GEOPLASTICOS S.A., Cali, Colombia; DOB 10 Nov 1957; POB Cali, Valle, Colombia; Cedula No. 31271034 (Colombia); Passport 31271034 (Colombia) (individual) [SDNT].
3. BARCO RUIZ, Eduardo, c/o FOGENSA S.A., Bogota, Colombia; DOB 26 May 1945; Cedula No. 5562182 (Colombia); Passport 5562182 (Colombia) (individual) [SDNT].
4. BUENO RAMIREZ, Pompeyo, c/o ADMACOOP, Bogota, Colombia; c/o COMERCIALIZADORA DIGLO LTDA., Bogota, Colombia; c/o CREDISOL, Bogota, Colombia; c/o DROCARD S.A., Bogota, Colombia; c/o FARMACOOP, Bogota, Colombia; Cedula No. 13354747 (Colombia); Passport 13354747 (Colombia) (individual) [SDNT].
5. CASTRO SANCHEZ, Nelson, c/o ADMACOOP, Bogota, Colombia; c/o CODISA, Bogota, Colombia; c/o FARMACOOP, Bogota, Colombia; DOB 18 May 1953; Cedula No. 19308824 (Colombia); Passport 19308824 (Colombia) (individual) [SDNT].
6. CASTRO VERGARA, Sandra, c/o INVERSIONES EL PENON S.A., Cali, Colombia; DOB 24 Nov 1964; Cedula No. 31924082 (Colombia) (individual) [SDNT].
7. CHARRIS MORALES, Geny Maria (a.k.a. CHARRYS MORALES, Geny Maria), c/o REPRESENTACIONES Y DISTRIBUCIONES HUERTAS Y ASOCIADOS S.A., Bogota, Colombia; c/o COOPERATIVA MULTIACTIVA DE COLOMBIA FOMENTAMOS, Bogota, Colombia; c/o COOPIFARMA, Bucaramanga, Colombia; DOB 24 Feb 1961; Cedula No. 51606354 (Colombia); Passport 51606354 (Colombia) (individual) [SDNT].
8. FONSECA PARAMO, Luisa Fernanda, c/o REPRESENTACIONES Y DISTRIBUCIONES HUERTAS Y ASOCIADOS S.A., Bogota, Colombia; DOB 18 Nov 1978; Cedula No. 30400266 (Colombia); Passport 30400266 (Colombia) (individual) [SDNT].
9. IDARRAGA RODRIGUEZ, Mauricio, c/o ASPOIR DEL PACIFICO Y CIA. LTDA., Cali, Colombia; c/o FUNDASER, Cali, Colombia; DOB 16 Mar 1970; Cedula No. 94307887 (Colombia); Passport 94307887 (Colombia) (individual) [SDNT].
10. LOPEZ ARANGO, Gloria Ines (a.k.a. LOPEZ DE OSPINA, Gloria Ines), Carrera 1K No. 60–71, Cali, Colombia; c/o DISTRIBUIDORA MIGIL CALI S.A., Cali, Colombia; c/o INMOBILIARIA IMTASA LTDA., Cali, Colombia; c/o GENERAL DE NEGOCIOS Y ADMINISTRACION LTDA., Cali, Colombia; DOB 18 Mar 1952; Cedula No. 31237563 (Colombia) (individual) [SDNT].
11. MARQUEZ CANOVAS, Alberto, c/o SERVICIOS INMOBILIARIOS LTDA., Cali, Colombia; c/o INMOBILIARIA U.M.V. S.A., Cali, Colombia; DOB 27 Oct 1951; Cedula No. 14993019 (Colombia) (individual) [SDNT].
12. NUNEZ TOLBANOS, Vicente Antonio, c/o COLIMEX LTDA., Cali, Colombia; c/o CPV SISTEMAS GRAFICOS S.L., Madrid, Spain; c/o JAROMO INVERSIONES S.L., Madrid, Spain; c/o RODRIGUEZ Y TOLBANOS S.A., Alcala de Henares, Madrid, Spain; N.I.E. 8966981–V (Spain) (individual) [SDNT].
13. OROZCO NINO, Carlos Alberto, c/o COMERCIALIZADORA INTERTEL S.A., Cali, Colombia; c/o PROSALUD S.A. Y BIENESTAR S.A., Cali, Colombia; c/o RENTAR INMOBILIARIA S.A., Cali, Colombia; DOB 16 Oct 1967; Cedula No. 16745992 (Colombia); Passport 16745992 (Colombia) (individual) [SDNT].
14. PEDRAZA GARZON, Fernando, c/o COOPERATIVA MULTIACTIVA DE COLOMBIA FOMENTAMOS, Bogota, Colombia; DOB 09 Nov 1962; Cedula No. 79283141 (Colombia); Passport 79283141 (Colombia) (individual) [SDNT].
15. QUINTERO SALAMANDO, Gabriela Elvira, c/o CONTACTEL COMUNICACIONES S.A., Cali, Colombia; c/o PROSPECTIVA E.U., Cali, Colombia; DOB 10 Sep 1963; Cedula No. 31406077 (Colombia); Passport 31406077 (Colombia) (individual) [SDNT].
16. VERA ROSAS, Gonzalo, c/o FARMA 3.000 LIMITADA, Barranquilla, Colombia; DOB 19 Sep 1968; Cedula No. 79136661 (Colombia); Passport 79136661 (Colombia) (individual) [SDNT].

Dated: August 20, 2014.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–20606 Filed 8–28–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated National Pursuant to the Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one individual whose property and interests in property has been unblocked pursuant to the Cuban Assets Control Regulations, 31 CFR part 515.

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (SDN List) of the individual identified in this notice is effective August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202)622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On August 20, 2014, the Director of OFAC removed from the SDN List the individual listed below, whose property and interests in property were blocked pursuant to the Cuban Assets Control Regulations:

1. BOILEAU, Pierre, 1078 Rue Champigny, Duvernay, Quebec, Canada (individual) [CUBA].

Dated: August 20, 2014.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–20607 Filed 8–28–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0670]

Proposed Information Collection (Fiduciary Statement in Support of Appointment) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine a claimant's qualification as a fiduciary.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 28, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0670'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Fiduciary Statement in Support of Appointment, VA Form 21–0792.

OMB Control Number: 2900–0670.

Type of Review: Revision of a currently approved collection.

Abstract: Individual's seeking appointment as a fiduciary of VA beneficiaries complete VA Form 21–0792. VA uses the data collected to determine the individual's qualification as a fiduciary and to inquire about his or her credit and criminal background.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,875 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 7,500.

Dated: August 26, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–20571 Filed 8–28–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Proposed Information Collection (Center for Verification and Evaluation [CVE] Site Inspection) Activity: Comment Request

AGENCY: Office of Small and Disadvantaged Business Utilization (OSDBU), The Department of Veterans Affairs (VA).

ACTION: Notice.

SUMMARY: VA OSDBU, is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed new collection of information, including each extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine the effectiveness of the site inspections that are part of the CVE Verification Program/Risk Mitigation, and to learn about the participants' experiences and satisfaction levels.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 28, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Milagros Ortiz, OSDBU, 00SB or email to: *milagros.ortiz@va.gov.* Please refer to ''OMB Control No. 2900–NEW (CVE Site Inspection)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Milagros Ortiz at (202) 461–4279 or Fax (202) 461–4301.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OMB invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OMB's functions, including whether the information will have practical utility; (2) the accuracy of OMB's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: CVE Site Inspections.

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: OSDBU and CVE protect the integrity and validity of VA's Veterans First Contracting Program by conducting a Risk Mitigation Program. This program helps to ensure that only eligible firms who meet the criteria of 38 Code of Federal Regulation (CFR) Part 74 are entered into the Vendor Information Pages (VIP) database. Service Disabled Veteran Owned Small Business (SDVOSB) and Veteran Owned Small Business (VOSB) participating of this program are either randomly selected for Post-verification Site Visit Audits or based upon risk assessment. OSDBU needs to determine the effectiveness of the site inspections that are part of the CVE Verification Program/Risk Mitigation, and to learn about the participants' experiences and satisfaction levels.

Affected Public: Service-disabled Veteran-owned small business (SDVOSB) owners and Veteran-owned small business (VOSB) owners that have gone through the verification process.

Estimated Annual Burden: 125 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Every other year (the verification status lasts for 2 years).

Estimated Number of Respondents: 125 per month (1,500 per year).

Dated: August 26, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–20596 Filed 8–28–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0720]

Proposed Information Collection (Operation Enduring Freedom/ Operation Iraqi Freedom Seriously Injured/Ill Service Member Veteran Worksheet); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information provided to Operation Enduring Freedom/Operation Iraqi Freedom veterans regarding benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 28, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0720'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Operation Enduring Freedom/ Operation Iraqi Freedom Seriously Injured/Ill Service Member Veteran Worksheet, VA Form 21–0773.

OMB Control Number: 2900–0720.

Type of Review: Revision of a currently approved collection.

Abstract: Veterans Service Representatives used VA Form 21–0773 as a checklist to ensure they provided Operation Enduring Freedom or Operation Iraqi Freedom service members who have at least six months remaining on active duty and may have suffered a serious injury or illness, with information, applications, and/or referral service regarding VA benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 14,000.

Dated: August 26, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–20579 Filed 8–28–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0579]

Proposed Information Collection (Request for Vocational Training Benefits—Certain Children of Vietnam Veterans); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine children of Vietnam veterans born with birth defects eligibility for vocational training benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 28, 2014.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0579'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Vocational Training Benefits—Certain Children of Vietnam Veterans, 38 CFR 21.8014.

OMB Control Number: 2900–0579.

Type of Review: Extension of a currently approved collection.

Abstract: Vietnam Veterans' children born with certain birth defects may submit a written claim to request participation in a vocational training program. In order for VA to relate the claim to other existing VA records, applicants must provide identifying information about themselves and the natural parent who served in Vietnam. The information collected will allow VA counselors to review existing records and to schedule an appointment with the applicant to evaluate the claim.

Affected Public: Individuals or households.

Estimated Annual Burden: 15 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 60.

Dated: August 25, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–20549 Filed 8–28–14; 8:45 am]

BILLING CODE 8302–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0580]

Proposed Information Collection (Request for Transportation Expense Reimbursement) Activity; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine children with spina bifida eligibility for reimbursement of transportation expenses.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 28, 2014.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0580'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Transportation Expense Reimbursement (38 CFR 21.8370).

OMB Control Number: 2900–0580.

Type of Review: Extension of a currently approved collection.

Abstract: Children of Vietnam Veterans born with spina bifida and receiving vocational training or seeking employment may request reimbursement for transportation expenses. To be eligible, the child must provide supportive documentation of actual expenses incurred for the travel. VA uses the information collected to determine if the child is unable to pursue training or employment without travel assistance.

Affected Public: Individuals or households.

Estimated Annual Burden: 63 hours.

Estimated Average Burden Per Respondent: 6 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents: 50.

Estimated Total Annual Responses: 600.

Dated: August 25, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–20550 Filed 8–28–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0079]

Agency Information Collection (Employment Questionnaire) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0079'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0079'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Employment Questionnaire, VA Forms 21–4140 and 21–4140–1.

OMB Control Number: 2900–0079.

Type of Review: Revision of a currently approved collection.

Abstract: Claimants who are under the age of 60 and receiving individual unemployability compensation at 100 percent rate are required to complete VA Forms 21–4140 and 21–4140–1 certifying that they are still unable to secure or follow a substantially gainful occupation because of a service connected-disability. VA will use the information collected to determine the claimant's continued entitlement to individual unemployability benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 12, 2014, at pages 33813–33814.

Affected Public: Individuals or households.

Estimated Annual Burden: 10,833 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 130,000.

Dated: August 26, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–20605 Filed 8–28–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for Oregon Spotted Frog; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2013–0013; 4500030113]

RIN 1018–AZ04

Endangered and Threatened Wildlife and Plants; Threatened Status for Oregon Spotted Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for Oregon spotted frog (*Rana pretiosa*), an amphibian species from British Columbia, Washington, Oregon, and California. The effect of this regulation will be to add this species to the List of Endangered and Threatened Wildlife.

DATES: This rule is effective September 29, 2014.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and *http://www.fws.gov/wafwo/osf.html*. Comments and materials we received, as well as some of the supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov*. All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE., Suite 102, Lacey, WA 98503; by telephone at 360–753–9440; or by facsimile at 360–753–9445.

FOR FURTHER INFORMATION CONTACT: Ken Berg, Manager, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE., Suite 102, Lacey, WA 98503; telephone 360–753–9440; facsimile 360–753–9445. 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 a rule. 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.

This rule will finalize the listing of the Oregon spotted frog *(Rana pretiosa)* as a threatened species.

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 the Oregon spotted frog is impacted by one or more of the following factors:

- Habitat necessary to support all life stages continues to be impacted or destroyed by human activities that result in the loss of wetlands to land conversions; hydrologic changes resulting from operation of existing water diversions/manipulation structures, new and existing residential and road developments, drought, and removal of beavers; changes in water temperature and vegetation structure resulting from reed canarygrass invasions, plant succession, and restoration plantings; and increased sedimentation, increased water temperatures, reduced water quality, and vegetation changes resulting from the timing and intensity of livestock grazing (or in some instances, removal of livestock grazing at locations where it maintains early seral stage habitat essential for breeding).
- Predation by nonnative species, including nonnative trout and bullfrogs.
- Inadequate existing regulatory mechanisms that result in significant negative impacts, such as habitat loss and modification.
- Other natural or manmade factors including small and isolated breeding locations, low connectivity, low genetic diversity within occupied sub-basins, and genetic differentiation between sub-basins.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all comments and information we received during the comment period.

Previous Federal Actions

On August 29, 2013, we published a proposed rule (78 FR 53582) to list the Oregon spotted frog as a threatened species under the Act (16 U.S.C. 1531 *et seq.*). Please refer to that proposed rule for a detailed description of Federal actions concerning this species. Also on August 29, 2013, we proposed to designate critical habitat for the Oregon spotted frog (78 FR 53538). On September 26, 2013, we published a document (78 FR 59334) extending the comment period of both proposed rules and announcing a public hearing on the proposals to list and designate critical habitat for this species.

This rule concerns only the listing of the Oregon spotted frog; we will make a final determination concerning critical habitat for the Oregon spotted frog in the near future.

Background

The Oregon spotted frog is named for the characteristic black spots covering the head, back, sides, and legs. The dark spots have ragged edges and light centers, usually associated with a tubercle or raised area of skin. The coloration patterns on Oregon spotted frogs all develop with age; the spots become larger and darker and the edges become more ragged as the individual gets older (Hayes 1994, p. 14). Overall body color also varies with age. Juveniles are usually brown or, occasionally, olive green on the back and white, cream, or flesh-colored with reddish pigments on the underlegs and abdomen developing with age (McAllister and Leonard 1997, pp. 1–2). Adults range from brown to reddish brown but tend to become redder with age. Large, presumably older, individuals may be brick red over most of the dorsal (back) surfaces (McAllister and Leonard 1997, pp. 1–2). Red surface pigments on the adult abdomen also expand with age, and the underlegs of adults become a vivid orange red. Tan to orange folds along the sides of the back (dorsolateral folds) extend from behind the eye to midway along the back (McAllister and Leonard 1997, p. 1). The eyes are upturned; there is a faint mask, and a light jaw stripe extends to the shoulder. Small bumps and tubercles usually cover the back and sides (Leonard *et al.* 1993, p. 130). The hind legs are short relative to body length, and the hind feet are fully webbed (Leonard *et al.* 1993, p. 130).

The Oregon spotted frog is a medium-sized frog that ranges from about 1.7 to 4.1 inches (in) (44 to 105 millimeters (mm)) in body length (McAllister and Leonard 1997, p. 1; Rombough *et al.*

2006, p. 210). Females are typically larger than males; females reach up to 105 mm (4 in) (Rombough *et al.* 2006, p. 210) and males to 75 mm (3 in) (Leonard *et al.* 1993, p. 130).

Morphological characters can be used to distinguish Oregon spotted frogs from other closely related spotted frogs. Mottling with dark pigments and fragmentation of the superficial red or orange-red wash on the abdomen can distinguish the Oregon spotted frog from some Columbia spotted frog populations (Hayes 1997, p. 3; Hayes *et al.* 1997, p. 1). Other characteristics, such as coloration of the underlegs and abdomen, size and shapes of spots, groin mottling, eye positions, relative length of hind legs to body size, degree of webbing, and behaviors can be used to distinguish Oregon spotted frogs from adults of closely related species. Tadpoles are more difficult to differentiate from other species (Corkran and Thoms 1996, p. 150; McAllister and Leonard 1997, p. 6).

The Oregon spotted frog has a weak call consisting of a rapid series of six to nine low clucking notes described as sounding like a distant woodpecker's tapping. Males will call at any time, both day and night (McAllister and Leonard 1997, p. 12). Males have been documented to call from submerged sites that are physically distant (tens to hundreds of meters) from oviposition (egg-laying) sites (Bowerman 2010, p. 85). These submerged calls are inaudible at the surface and begin several days prior to breeding. Submerged calling is more frequent at night, although daytime calling has been recorded during overcast days (Bowerman 2010, pp. 85–86). It is unclear if mate selection takes place during this period of calling remotely from the breeding site, but it seems likely (Bowerman 2010, p. 86). This species rarely vocalizes except during the breeding season (Leonard *et al.* 1993, p. 132); however, vocalizations have been heard during the fall (Leonard *et al.* 1997, pp. 73–74; Pearl 2010, pers. comm.).

Taxonomy

The scientific name *Rana pretiosa* (order Anura; family Ranidae) was first applied to a series of five specimens collected in 1841 from the vicinity of Puget Sound (Baird and Girard 1853, p. 378). Two of these specimens were later determined to be northern red-legged frogs (*Rana aurora*) (Hayes 1994, p. 4; Green *et al.* 1997, p. 4). Dunlap (1955) demonstrated the morphological differences between northern red-legged frogs, Cascades frogs, and spotted frogs. Subsequently, the ''spotted frog'' was separated into two species, *Rana pretiosa* (Oregon spotted frog) and *Rana luteiventris* (Columbia spotted frog) based on genetic analyses (Green *et al.* 1996, 1997).

In 2008, phylogenetic analyses were conducted on samples of Oregon spotted frogs collected from 3 locations in Washington and 13 locations in Oregon (Funk *et al.* 2008). Results indicate two well-supported clades (a group of biological taxa (as species) that includes all descendants of one common ancestor) nested within the Oregon spotted frog: The Columbia clade (Trout Lake Natural Area Preserve (NAP) and Camas Prairie) and the southern Oregon clade (Wood River and Buck Lake in the Klamath Basin). The two sites that comprise the Columbia clade occur on opposite sides of the Columbia River in Washington (Trout Lake NAP) and in Oregon (Camas Prairie). Haplotype and nucleotide diversity was low for Oregon spotted frogs in general and was very low for each of the two nested clades, respectively (Funk *et al.* 2008, p. 203). Only six haplotypes were found across the entire range of the Oregon spotted frog, indicating low genetic variation (Funk *et al.* 2008, p. 205). Recent genetic work conducted by Robertson and Funk (2012, p. 6) in the Deschutes and Klamath basins indicate the sampled Oregon spotted frog sites are characterized by very small effective population sizes and little genetic variation (i.e., measured as low heterozygosity and low allelic richness).

Blouin *et al.* (2010) performed genetic analyses on Oregon spotted frogs from 23 of the known sites in British Columbia, Washington, and Oregon for variation at 13 microsatellite loci and 298 base pairs of mitochondrial DNA. Their results indicate that *Rana pretiosa* comprised six major genetic groups: (1) British Columbia; (2) the Chehalis drainage in Washington, (3) the Columbia drainage in Washington, (4) Camas Prairie in northern Oregon, (5) the central Cascades of Oregon, and (6) the Klamath basin (Blouin *et al.* 2010, pp. 2184–2185). Within the northern genetic groups, the British Columbia (Lower Fraser River) and Chehalis (Black River) populations form the next natural grouping (Blouin *et al.* 2010, p. 2189). Recently discovered locales in the Sumas, South Fork Nooksack, and Samish Rivers occur in-between these two groups. While no genetic testing has been done on these newly found populations, it is reasonable to assume that they are likely to be closely related to either the British Columbia or Chehalis group, or both, given their proximity and use of similar lowland marsh habitats.

Levels of genetic variation in the Oregon spotted frog groups are low compared to other ranid frogs, suggesting these populations are very small and/or very isolated (Blouin *et al.* 2010, p. 2184). Blouin *et al.* (2010) found a high frequency of private alleles in the mitochondrial DNA (i.e., an allele found in only one population or geographic location) in the central Cascades and Klamath Basin groups. This finding suggests an historical (rather than recent) isolation between individual groups (Blouin *et al.* 2010, p. 2189). This finding also reinforces microsatellite-based conclusions that gene flow among sites has been very low, even on small geographic scales (Blouin *et al.* 2010, p. 2188). Recent work by Robertson and Funk (2012) in the Deschutes and Klamath basins reinforces the Blouin *et al.* (2010) findings. Due to Oregon spotted frogs' highly aquatic habits, connectivity between Oregon spotted frog sites depends on the connectivity of streams, rivers, and lakes. Gene flow (based on both microsatellite and mitochondrial analyses) is extremely low beyond 6 miles (mi) (10 kilometers (km)) (Blouin *et al.* 2010, pp. 2186, 2188), and most Oregon spotted frog populations are separated by more than 6.2 mi (10 km). Therefore, Blouin *et al.* (2010, p. 2189) and Robertson and Funk (2012, p. 5) hypothesize that low aquatic connectivity and small isolated populations are important causes of the low genetic diversity within sites and the high genetic differentiation among sites.

Life History

Male Oregon spotted frogs are not territorial and often gather in large groups of 25 or more individuals at specific locations (Leonard *et al.* 1993, p. 132). Breeding occurs in February or March at lower elevations and between early April and early June at higher elevations (Leonard *et al.* 1993, p. 132). Males and females separate soon after egg-laying, with females returning to fairly solitary lives. Males often stay at the breeding site, possibly for several weeks, until egg-laying is completed (McAllister and Leonard 1997, p. 13). (The terms ''egg-laying site'' or ''egg-laying habitat'' are used interchangeably with ''breeding site,'' ''breeding area,'' or ''breeding habitat'' throughout this rule). Breeding site, breeding area, and breeding location terminology refer to geographic areas where concentrated breeding has been observed.

Oregon spotted frogs' eggs are extremely vulnerable to desiccation and

freezing as a result of the species' laying habits. Females may deposit their egg masses at the same locations in successive years, indicating the sites may have unique characteristics. For example, some marked males and females at Sunriver (Upper Deschutes River, Oregon) returned to the same breeding site for 3 or more years (Bowerman 2006, pers. comm.). Further, at several sites in Oregon and Washington, the same egg-laying locations have been used for more than a decade (Hayes 2008, pers. comm.; Hallock 2012, pp. 24–27). Although egg masses are occasionally laid singly, the majority of egg masses are laid communally in groups of a few to several hundred (Licht 1971, p. 119; Nussbaum *et al.* 1983, p. 186; Cook 1984, p. 87; Hayes *et al.* 1997 p. 3; Engler and Friesz 1998, p. 3). They are laid in shallow, often temporary, pools of water; on gradually receding shorelines; on benches of seasonal lakes and marshes; and in wet meadows. These sites are usually associated with the previous year's emergent vegetation and are generally no more than 14 in. (35 centimeters (cm.)) deep (Pearl and Hayes 2004, pp. 19–20). Most of these sites dry up later in the season (Engler 1999, pers. comm.), but are connected via surface water to permanently wetted areas, such as creeks, wetlands, and springs. Shallow water is easily warmed by the sun, and warmth hastens egg development (McAllister and Leonard 1997, p. 8). However, laying eggs in shallow water can result in high mortality rates for eggs and hatchling larvae due to desiccation or freezing.

Licht (1974, pp. 617–625) documented the highly variable mortality rates for spotted frog life-history stages in marsh areas in the lower Fraser Valley, British Columbia, embryos (30 percent), tadpoles (99 percent), and post-metamorphic (after the change from tadpole to adult, or ''metamorphosis'') frogs (95 percent). Licht (1974, p. 625) estimated mortality of each life stage and predicted only a 1 percent chance of survival of eggs to metamorphosis, a 67 percent chance of juvenile survival for the first year, and a 64 percent adult annual survival with males having a higher mortality rate than females. An average adult between-year survival of 37 percent was estimated by a mark-recapture study at Dempsey Creek in Washington between 1997 and 1999 (Watson *et al.* 2000, p. 19).

Adult Oregon spotted frogs begin to breed by 1 to 3 years of age, depending on sex, elevation, and latitude. Males may breed at 1 year at lower elevations and latitudes but generally breed at 2 years of age. Females breed by 2 or 3 years of age, depending on elevation and latitude. Longevity of the species is not well understood; however, there are multiple examples of Oregon spotted frogs living beyond 7 years of age (Watson *et al.* 2000, p. 21; McAllister 2008, pers. comm.; Oertley 2005, pers. comm.; Pearl 2005, pers. comm.).

Egg-laying can begin as early as February in lowland areas of British Columbia and Washington and as late as early June in the higher elevations. Tadpoles metamorphose into froglets (tiny frogs) (about 0.6–1.75 in. (16–43 mm.) in length) during their first summer (Leonard *et al.* 1993, p. 132; Pearl and Bowerman 2005, pers. comm.). Tadpoles are grazers, having rough tooth rows for scraping plant surfaces and ingesting plant tissue and bacteria. They also consume algae, detritus, and probably carrion (Licht 1974, p. 624; McAllister and Leonard 1997, p. 13).

Post-metamorphic Oregon spotted frogs are opportunistic predators that prey on live animals, primarily insects, found in or near the water. Prey groups of adult frogs include leaf beetles (*Chrysomelidae*), ground beetles (*Carabidae*), spiders (*Arachnida*), rove beetles (*Staphylinidae*), syrphid flies (*Syrphidae*), long-legged flies (*Dolichopodidae*), ants (*Formicidae*), water striders (*Gerridae*), spittlebugs (*Cercopidae*), leaf hoppers (*Cicadellidae*), aphids (*Aphididae*), dragonflies and damsel flies (*Odonates*), and yellowjackets (*Vespidae*) (Licht 1986a, pp. 27–28). Oregon spotted frogs also eat adult Pacific tree frogs (*Pseudacris regilla*), small red-legged frogs, and newly metamorphosed red-legged frogs and western toad (*Anaxyrus boreas*) juveniles (Licht 1986a, p. 28; Pearl and Hayes 2002, pp. 145–147; Pearl *et al.* 2005a, p. 37).

Similar to many North American pond-breeding anurans (belonging to the Order Anura, which contains all frogs), predators can strongly affect the abundance of larval and post-metamorphic Oregon spotted frogs. The heaviest losses to predation are thought to occur shortly after tadpoles emerge from eggs, when they are relatively exposed and poor swimmers (Licht 1974, p. 624). However, the odds of survival appear to increase as tadpoles grow in size and aquatic vegetation matures, thus affording cover (Licht 1974, p. 624). Adult Oregon spotted frogs have a number of documented and potential natural predators, including garter snakes (*Thamnophis* species (spp.)), great blue herons (*Ardea herodias*), green herons (*Butorides virescens*), American bitterns (*Botaurus lentiginosus*), belted kingfishers (*Ceryle alcyon*), sandhill cranes (*Grus canadensis*), raccoons (*Procyon lotor*), coyotes (*Canis latrans*), striped skunks (*Mephitis mephitis*), mink (*Neovison vison*), river otters (*Lontra canadensis*), and feral cats (*Felis domesticus*) (McAllister and Leonard 1997, p. 13; Hayes *et al.* 2005, p. 307; Hayes *et al.* 2006, p. 209). Tadpoles may be preyed upon by numerous vertebrate predators including belted kingfishers, hooded mergansers (*Lophodytes cucullatus*), common garter snakes (*Thamnophis sirtalis*), western terrestrial garter snakes (*Thamnophis elegans*), larval and adult roughskin newts (*Taricha granulosa*), larval northwestern salamanders (*Ambystoma gracile*), cutthroat trout (*Oncorhynchus clarki*), Olympic mudminnows (*Novumbra hubbsi*), and three-spined sticklebacks (*Gasterosteus aculeatus*) (McAllister and Leonard 1997, p. 14).

Subadult Oregon spotted frogs have been observed within dense aggregations of recently hatched Oregon spotted frog tadpoles, and stomach flushing verified that these subadult Oregon spotted frogs had consumed (cannibalized) recently hatched conspecific (belonging to the same species) tadpoles (McAllister 2008, pers. comm.). Invertebrate predators include dytiscid beetles (*Dytiscus* spp.), giant water bugs (*Lethocerus americanus*), backswimmers (*Notonecta undulata* and *N. kirbyi*), water scorpions (*Ranatra* sp.), dragonfly nymphs (*Odonata*), and worm-leeches (*Arhynchobdellida*) (McAllister and Leonard 1997, p. 14). Leeches and other invertebrates, roughskin newts, and northwestern salamanders are likely Oregon spotted frog egg predators (Licht 1974, p. 622).

The introduction of nonnative species into the historical range of the Oregon spotted frog is believed to have contributed to the decline of this and other species of frogs (Hayes and Jennings 1986, pp. 491–492, 494–496; Hayes 1994, p. 5; 61 FR 25813; McAllister and Leonard 1997, pp. 25–26; Pearl *et al.* 2004, pp. 17–18). American bullfrogs (*Lithobates catesbeianus*) are known predators of Oregon spotted frogs (R. Haycock and R.A. Woods, unpubl. data, 2001 cited in COSFRT 2012, p. 19), and introduced fish such as brook trout (*Salvelinus fontinalis*) and centrarchids (*Micropterus* and *Lepomis* spp.) are also likely predators (Pearl *et al.* 2009a, p. 140).

Habitat

Watson *et al.* (2003, p. 298) summarized the conditions required for completion of the Oregon spotted frog's

life cycle as shallow water areas for egg and tadpole survival; perennially deep, moderately vegetated pools for adult and juvenile survival in the dry season; and perennial water for protecting all age classes during cold wet weather.

The Oregon spotted frog inhabits emergent wetland habitats in forested landscapes, although it is not typically found under forest canopy. Historically, this species was also associated with lakes in the prairie landscape of the Puget lowlands (McAllister and Leonard 1997, p. 16). This is the most aquatic native frog species in the Pacific Northwest (PNW), as all other species have a terrestrial life stage. It is found in or near a perennial body of water, such as a spring, pond, lake, sluggish stream, irrigation canal, or roadside ditch (Engler 1999, pers. comm.). The observation that extant Oregon spotted frog populations tend to occur in larger wetlands led Hayes (1994, Part II pp. 5, 7) to hypothesize that a minimum size of 9 acres (ac) (4 hectares (ha)) may be necessary to reach suitably warm temperatures and support a large enough population to persist despite high predation rates. However, Oregon spotted frogs also occupy smaller sites and are known to occur at sites as small as 2.5 ac (1 ha) and as large as 4,915 ac (1,989 ha) (Pearl and Hayes 2004, p. 11). Oregon spotted frogs have been found at elevations ranging from near sea level in the Puget Trough lowlands in Washington to approximately 5,000 feet (ft) (1,500 meters (m)) in the Oregon Cascades in western Oregon (Dunlap 1955, p. 316; Hayes 1997, p. 16; McAllister and Leonard 1997, pp. 8–10).

Oregon spotted frogs can make use of a variety of pond types as long as there is sufficient vegetation and seasonal habitat available for egg-laying, tadpole rearing, summer feeding, and overwintering (Pearl et. al. 2009a, p. 144). Oregon spotted frogs at Dempsey Creek in Washington selected areas of relatively shallow water with less emergent vegetation but more submergent vegetation than adjacent habitats. They avoided dry, upland areas of pasture grass (Watson *et al.* 1998, p. 10; 2000, pp. 54–57; 2003, p. 297). Radio telemetry data indicate Oregon spotted frogs at Dempsey Creek also make extensive use of scrub-shrub wetland habitats adjacent to forested uplands during the winter (moving between the creek and egg-laying areas) (Risenhoover *et al.* 2001a, p. 13).

Oregon spotted frogs breed in shallow pools (≤14 in (35 cm) deep) that are near flowing water, or which are connected to larger bodies of water during seasonally high water or at flood stage. Characteristic vegetation includes grasses, sedges, and rushes, although eggs are laid where the vegetation is low or sparse, such that vegetation structure does not shade the eggs (McAllister and Leonard 1997, p. 17). While native vegetation is the preferred substrate, the frog also uses short, manipulated, reed canarygrass/native vegetation mix (Engler 1999, pers. comm.). Full solar exposure seems to be a significant factor in egg-laying habitat selection (McAllister and White 2001, p. 12; Pearl and Hayes 2004, p. 18). The availability of the unique characteristics of traditional egg-laying sites is limited, and adults may have limited flexibility to switch sites (Hayes 1994, p. 19). This may make the Oregon spotted frog particularly vulnerable to modification of egg-laying sites (Hayes 1994, p. 19).

After breeding, during the dry season, Oregon spotted frogs move to deeper, permanent pools or creeks (Watson *et al.* 2003, p. 295). They are often observed near the water's surface basking and feeding in beds of floating and submerged vegetation (Watson *et al.* 2003, pp. 292–298; Pearl *et al.* 2005a, pp. 36–37).

Known overwintering sites are associated with flowing systems, such as springs and creeks, that provide well-oxygenated water (Hallock and Pearson 2001, p. 15; Hayes *et al.* 2001, pp. 20–23; Tattersall and Ultsch 2008, pp. 123, 129, 136) and sheltering locations protected from predators and freezing (Risenhoover *et al.* 2001b; Watson *et al.* 2003, p. 295). Oregon spotted frogs apparently burrow in mud, silty substrate; clumps of emergent vegetation; woody accumulations within the creek; and holes in creek banks when inactive during periods of prolonged or severe cold (Watson *et al.* 2003, p. 295; Hallock and Pearson 2001, p. 16; McAllister and Leonard 1997, p. 17). They are, however, intolerant of anoxic (absence of dissolved oxygen) conditions and are unlikely to burrow into the mud for more than a day or two (Tattersall and Ultsch 2008, p. 136) because survival under anoxic conditions is only a matter of 4 to 7 days (Tattersall and Ultsch 2008, p. 126). This species remains active during the winter and selects microhabitats that can support aerobic metabolism and minimize exposure to predators (Hallock and Pearson 2001, p. 15; Hayes *et al.* 2001, pp. 20–23; Tattersall and Ultsch 2008, p. 136). In central Oregon, where winters generally result in ice cover over ponds, Oregon spotted frogs follow a fairly reliable routine of considerable activity and movement beneath the ice during the first month following freeze-up. Little movement is observed under the ice in January and February, but activity steadily increases in mid-March, even when ice cover persists (Bowerman 2006, pers. comm.). Radio-tracked frogs remained active all winter, even under the ice at Trout Lake NAP (Hallock and Pearson 2001, pp. 12, 14, 15) and Conboy Lake National Wildlife Refuge (NWR) (Hayes *et al.* 2001, pp. 16–19).

Results of a habitat utilization and movement study at Dempsey Creek in Washington indicate that adult frogs made infrequent movements between widely separated pools and more frequent movements between pools in closer proximity (Watson *et al.* 2003, p. 294), but remained within the study area throughout the year. Home ranges averaged 5.4 ac (2.2 ha), and daily movement was 16–23 ft (5–7 m) throughout the year (Watson *et al.* 2003, p. 295). During the breeding season (February–May), frogs used about half the area used during the rest of the year. During the dry season (June–August), frogs moved to deeper, permanent pools, and occupied the smallest range of any season, then moved back toward their former breeding range during the wet season (September–January) (Watson *et al.* 2003, p. 295). Individuals equipped with radio transmitters stayed within 2,600 ft (800 m) of capture locations at the Dempsey Creek site (Watson *et al.* 1998, p. 10) and within about 1,312 ft (400 m) at the Trout Lake NAP (Hallock and Pearson 2001, p. 16).

Recaptures of Oregon spotted frogs at breeding locations in the Buck Lake population in Oregon indicated that adults often move less than 300 ft (100 m) between years (Hayes 1998a, p. 9). However, longer travel distances, while infrequent, have been observed between years and within a single year between seasons. Three adult Oregon spotted frogs (one male and two females) marked in a study at Dempsey Creek and the Black River in Washington moved a distance of 1.5 mi (2.4 km) between seasons along lower Dempsey Creek to the creek's mouth from the point where they were marked (McAllister and Walker 2003, p. 6). An adult female Oregon spotted frog traveled 1,434 ft (437 m) between seasons from its original capture location at the Trout Lake Wetland NAP (Hallock and Pearson 2001, p. 8). Two juvenile frogs at the Jack Creek site in Oregon were recaptured the next summer 4,084 ft (1,245 m) and 4,511 ft (1,375 m) downstream from where they were initially marked, and one adult female moved 9,183 ft (2,799 m) downstream (Cushman and Pearl 2007, p. 13). Oregon spotted frogs at the Sunriver site routinely make annual migrations of 1,640 to 4,265 ft (500 to

1,300 m) between the major breeding complex and an overwintering site (Bowerman 2006, pers. comm.).

While these movement studies are specific to Oregon spotted frogs, the number of studies and size of the study areas are limited and have not been conducted over multiple seasons or years. In addition, the ability to detect frogs is challenging because of the difficult terrain and the need for the receiver and transmitter to be in close proximity. Hammerson (2005) recommends that a 3.1-mile (5-km) dispersal distance be applied to all ranid frog species, because the movement data for ranids are consistent. The preponderance of data indicates that a separation distance of several kilometers may be appropriate and practical for delineation of occupancy, despite occasional movements that are longer or that may allow some genetic interchange between distant populations (for example, the 6.2-mi (10-km) distance noted by Blouin *et al.* 2010, pp. 2186, 2188). Accordingly, based on the best available scientific information, we presume that Oregon spotted frog habitats are connected for purposes of genetic exchange when occupied/suitable habitats fall within a maximum movement distance of 3.1 mi (5 km).

Historical Range/Distribution

Historically, the Oregon spotted frog ranged from British Columbia to the Pit River basin in northeastern California (Hayes 1997, p. 40; McAllister and Leonard 1997, p. 7). Oregon spotted frogs have been documented at 61 historical localities in 48 watersheds (3 in British Columbia, 13 in Washington, 29 in Oregon, and 3 in California) in 31 sub-basins (McAllister *et al.* 1993, pp. 11–12; Hayes 1997, p. 41; McAllister and Leonard 1997, pp. 18–20; COSEWIC 2011, pp. 12–13) (see Table 1). We are assuming the watersheds that have recently been documented to be occupied were also occupied historically based on their complete disconnect from known-occupied watersheds and the limited dispersal ability of the Oregon spotted frog. In our analysis of the status and threats to the Oregon spotted frog, we first assessed conditions by breeding location and occupied watersheds, and then summarized the conditions by occupied sub-basin (see Summary of Factors Affecting the Species for more information). Our Threats Synthesis Rangewide Analysis, which includes this finer scale analysis of distribution, is available at *http://www.regulations.gov* and *http://www.fws.gov/wafwo*. However, for the rest of the document, we will describe historical and current range or distribution based on river sub-basins/watersheds. A river sub-basin is equivalent to a 4th field watershed and a hydrologic unit code (HUC) of 8. A watershed is equivalent to a 5th field watershed and a HUC 10.

TABLE 1—OREGON SPOTTED FROG HISTORICAL AND EXTANT DISTRIBUTION THROUGHOUT RANGE

Location	Sub-basins*: Watersheds
British Columbia	• **Lower Fraser River sub-basin** near Sumas Prairie in Abbotsford, Nicomen Island in Matsqui, and in Langley Township. Recently (1996/1997 and 2008) discovered at MD Aldergrove, Maria Slough, Mountain Slough, and Morris Valley
Washington Counties: Clark, King, Klickitat, Pierce, Skagit, Snohomish, Thurston, and Whatcom.	• **Fraser River sub-basin:** Recently discovered (2012) in the Sumas River, a tributary to the Lower Chilliwack River watershed; • **Nooksack River sub-basin:** South Fork Nooksack River (recently discovered (2011 and 2012) in the Black Slough); • **Straits of Georgia sub-basin:** Recently discovered (2011 and 2012) along the mainstem of the Samish River; • Lower Skagit River sub-basin: Skagit River-Frontal Skagit Bay and Finney Creek-Skagit River; • Skykomish River sub-basin: Woods Creek-Skykomish River at Monroe; • Duwamish River sub-basin: Lower Green River at Kent; • Lake Washington sub-basin: Lake Washington at Seattle; • Puget Sound (no sub-basin): Chambers Creek-Frontal Puget Sound (Spanaway Lake) and McLane Creek-Frontal Puget Sound (Patterson/Pattison Lake); • Nisqually River sub-basin: Lower Nisqually River-Frontal Puget Sound (Kapowsin); • **Upper Chehalis River sub-basin:** Black River (Dempsey Creek, Beaver Creek, Blooms Ditch, and recently discovered in Salmon and Fish Pond Creeks); • Lower Willamette River sub-basin: Salmon Creek-Frontal Columbia River at Brush Prairie, Vancouver, and possibly Burnt Bridge Creek at Orchards; • **Middle Columbia-Hood River sub-basin:** White Salmon River (Trout Lake Creek at Gular and Trout Lake); • **Klickitat River sub-basin:** Middle Klickitat River (Conboy Lake on Outlet, Frazier, and Chapman Creeks)
Oregon Counties: Multnomah, Clackamas, Marion, Linn, Benton, Jackson, Lane, Wasco, Deschutes, and Klamath.	• Lower Willamette River sub-basin: Johnson Creek; • **Lower Deschutes River sub-basin:** Tygh Creek and White River; • Clackamas River sub-basin: Oak Grove Fork Clackamas River; • Middle Willamette River sub-basin: Mill Creek-Willamette River and Oak Creek; • South Santiam River sub-basin: South Santiam River-Hamilton Creek; • Upper Willamette River sub-basin: Muddy Creek; • **McKenzie River sub-basin:** Upper McKenzie River and South Fork McKenzie River; • **Middle Fork Willamette River sub-basin:** Salt Creek-Willamette River; • **Upper Deschutes River sub-basin:** Deschutes River-McKenzie Canyon, Deschutes River-Pilot Butte, Deschutes River-Fall River, and Deschutes River-Browns Creek; • **Little Deschutes River sub-basin:** Upper Little Deschutes River, Middle Little Deschutes River, Lower Little Deschutes River, Long Prairie, and Crescent Creek; • **Williamson River sub-basin:** Klamath Marsh-Jack Creek, West of Klamath Marsh, and Williamson River above Klamath Marsh • Sprague River sub-basin: North Fork Sprague River and Sprague River above Williamson; • **Upper Klamath Lake sub-basin:** Wood River and Klamath Lake watersheds; • **Upper Klamath sub-basin:** Spencer Creek and Jenny Creek; • Lost River sub-basin: Lake Ewauna-Upper Klamath River

TABLE 1—OREGON SPOTTED FROG HISTORICAL AND EXTANT DISTRIBUTION THROUGHOUT RANGE—Continued

Location	Sub-basins*: Watersheds
California Counties: Modoc, Shasta, and Siskiyou.	• Lost River sub-basin: Lower Klamath Lake • Upper Pit River sub-basin: Pine Creek-South Pit River (near Alturas) • Lower Pit River sub-basin: Town of Pittville-Pit River (near Fall River Mills)

* Bolded sub-basins represent the sub-basins with extant locales. Oregon spotted frogs may not be extant in all of the historic watersheds within these sub-basins.

Current Range/Distribution

Currently, the Oregon spotted frog is found from extreme southwestern British Columbia south through the Puget Trough and in the Cascades Range from south-central Washington at least to the Klamath Basin in southern Oregon. Oregon spotted frogs occur in lower elevations in British Columbia and Washington and are restricted to high elevations in Oregon (Pearl *et al.* 2010, p. 7). In addition, Oregon spotted frogs currently have a very limited distribution west of the Cascade crest in Oregon, are considered to be extirpated from the Willamette Valley in Oregon (Cushman *et al.* 2007, p. 14), and may be extirpated in the Klamath and Pit River basins of California (Hayes 1997, p. 1). Currently occupied, or extant, sub-basins are those in which Oregon spotted frogs have been found in since 2000.

In British Columbia, Oregon spotted frogs no longer occupy the locations documented historically, but they currently are known to occupy four disjunct locations in a single sub-basin, the Lower Fraser River (Canadian Oregon Spotted Frog Recovery Team 2012, p. 6).

In Washington, Oregon spotted frogs are known to occur only within six sub-basins/watersheds: The Sumas River, a tributary to the Lower Chilliwack River watershed and Fraser River sub-basin; the Black Slough in the lower South Fork Nooksack River, a tributary of the Nooksack River; Samish River; Black River, a tributary of the Chehalis River; Outlet Creek (Conboy Lake), a tributary to the Middle Klickitat River; and Trout Lake Creek, a tributary of the White Salmon River. The Klickitat and White Salmon Rivers are tributaries to the Columbia River. The Oregon spotted frogs in each of these sub-basins/watersheds are isolated from frogs in other sub-basins.

A reintroduction project was initiated in 2008, at Dailman Lake in Pierce County on Joint Base Lewis-McChord Military Reservation. This sub-basin (Nisqually River) was historically occupied by Oregon spotted frogs with a documented occurrence at Kapowsin (McAllister and Leonard 1997, pp. 18–19). Eggs were collected from the Black River and the Conboy Lake Oregon spotted frog egg-laying locations, captive reared until metamorphosis, and released in the fall or subsequent spring. Through 2011, researchers collected 7,870 eggs and released 3,355 frogs (Tirhi and Schmidt 2011, pp. 51–53). Surveys in April 2011 found 3 verified Oregon spotted frog egg masses and 11 suspected egg masses. However, egg masses were not detected in 2012. This effort is ongoing, and the efficacy and viability of a breeding Oregon spotted frog population being established in this area is undetermined; therefore, this location will not be discussed further. However, should a population be established, it would be considered to be a part of the listed entity.

In Oregon, Oregon spotted frogs are known to occur only within eight sub-basins: Lower Deschutes River, Upper Deschutes River, Little Deschutes River, McKenzie River, Middle Fork Willamette, Upper Klamath, Upper Klamath Lake, and the Williamson River. The Oregon spotted frogs in most of these sub-basins are isolated from frogs in other sub-basins, although Oregon spotted frogs in the lower Little Deschutes River are aquatically connected with those below Wickiup Reservoir in the Upper Deschutes River sub-basin. Oregon spotted frog distribution west of the Cascade Mountains in Oregon is restricted to a few lakes in the upper watersheds of the McKenzie River and Middle Fork Willamette River sub-basins, which represent the remaining 2 out of 12 historically occupied sub-basins.

In California, this species has not been detected since 1918 (California Academy of Science Museum Record 44291) at historical sites and may be extirpated (Hayes 1997, pp. 1, 35). However, there has been limited survey effort of potential habitat and this species may still occur in California.

Population Estimates and Status

Of the 61 historical localities where the species' previous existence can be verified (e.*g.,* museum specimens, photographs, reliable published records), only 13 were confirmed as being occupied in studies conducted in the 1990s (Hayes 1997, p. 1; McAllister and Leonard 1997, p. 20). Hayes visited historical localities one to four times, with a minimum of 2 hours devoted to site visits where precise localities could be identified. For sites where the precise location was not known, he searched three to six points in the area that possessed favorable habitat, for 20 minutes to 3 hours, depending on site size. Hayes also visited sites that were judged to have a high likelihood of having Oregon spotted frogs (i.e., within the historical range, consistent with elevations documented for verifiable specimens, and within suitable habitat) (Hayes 1997, p. 6). Based on those studies, Hayes (1997, p. 1) estimated the species may no longer occur in 76 to 90 percent of its historical range. Although this estimated loss of historical localities did not account for potential range expansion or shifts, Oregon spotted frogs have not been subsequently relocated in these areas. The estimated loss in historical range does not take into account the localities found since 2000. However, the current range of the Oregon spotted frog is significantly smaller than the historical range, based on the best available scientific and commercial information.

Egg mass counts are believed to be a good metric of adult population size and are the most time-efficient way to estimate population size (Phillipsen *et al.* 2010, p. 743). Adult females are believed to lay one egg mass per year (Phillipsen *et al.* 2010, p. 743), and the breeding period occurs within a reliable and predictable timeframe each year (McAllister 2006, pers. comm.). If egg mass numbers are collected in a single survey timed to coincide with the end of the breeding season, when egg laying should be complete, then the egg mass count should represent a reliable estimate of total egg masses. Because one egg mass is approximately equivalent to one breeding female plus one to two adult males, a rough estimate of adult population size can be made if a thorough egg mass census is completed (Phillipsen *et al.* 2010, p. 743). However, using egg mass counts to estimate population size has some weaknesses. For example, researchers have uncertainties about whether adult females breed every year, only lay one

egg mass per year, and find difficulty in distinguishing individual egg masses in large communal clusters. However, a minimum population estimate can be derived from the total egg mass count multiplied by two (one egg mass equals two adult frogs). While there are weaknesses in these estimates, as discussed above, they are the best estimates available for Oregon spotted frog numbers.

Egg mass counts, as currently conducted at most sites, do not allow for evaluation of trends within a site nor between sites because surveys are not standardized. Survey effort, area coverage, and timing can differ between years at individual sites. In addition, method of survey can differ between years at individual sites and differ between sites. Because of the weaknesses associated with the egg mass counts, site estimates derived from egg mass counts are considered to be a minimum estimate and generally should not be compared across years or with other sites. However, some breeding locations have been surveyed in a consistent manner (in some cases by the same researcher) and for enough years that trend data are available and considered to be reliable. Trend information is provided in the following sub-basin summaries for the locations where the information is available.

For the purposes of this document, the terms 'location' and 'site' simply refer to the general locations where egg-laying has been observed. In some cases, a site may be equivalent to an Oregon spotted frog population (for example, Hosmer Lake). In other cases, a site may include multiple egg-laying locations within wetland complexes where hydrological connections may facilitate movement between egg-laying areas, but where movement patterns and genetic conditions are undetermined within the complexes (for example, Klamath Marsh NWR). Accordingly, a site should not be interpreted to be a population. Because of the lack of complete information between occurrence locations, populations were not specifically identified for this status review, and the focus of our analysis regarding the status of Oregon spotted frogs was within the individual river sub-basins.

The following summarizes the best available scientific and commercial information available regarding populations within the currently occupied river sub-basins in British Columbia, Washington, and Oregon. We used multiple data sources, including various unpublished reports, databases, and spreadsheets provided by our partner agencies. These sources are identified in the following sections as ''multiple data sources'' and are included in our literature cited list, which is included as supplementary information on *http://www.regulations.gov* for this final rule. These sources are available upon request from the Washington Fish and Wildlife Office (see **ADDRESSES**). In most sub-basins, trend information regarding the collective status of the populations within the sub-basin is limited or not available; trend information that was available is presented below. The status of a sub-basin may be undetermined because the Oregon spotted frog presence has only recently been identified, the trend information is uncertain, or sufficient survey information is not available to indicate a trend. However, when viewed at the rangewide scale, the Oregon spotted frog has been extirpated from most of its historical range, and the threat of current and future impacts to the Oregon spotted frog occurs over the entire range of the species. Ongoing threats have significantly reduced the overall extent and distribution of suitable habitat for the Oregon spotted frog, as discussed below in Summary of Factors Affecting the Species.

British Columbia

Currently, Oregon spotted frogs are known to occur only within four sites in the Lower Fraser River Basin. Of the four sites, Maintenance Detachment Aldergrove (MD Aldergrove) is nearing, or may have reached extirpation, as no egg masses have been discovered at the site since 2006; Mountain Slough appears to be stable; Maria Slough may be declining; and there are limited data for the recently discovered Morris Valley site (COSEWIC 2011, p. v). Estimates from the well-studied populations at MD Aldergrove, Maria Slough, and Mountain Slough indicate a population decline of 35 percent during the period 2000–2010 (COSEWIC 2011, p. 32), and the most recent egg mass counts indicate the minimum population size for all of British Columbia is fewer than 350 adults (COSEWIC 2011, pp. 27–30). One extant population is near extinction, and the remaining populations are small and vulnerable to disturbance and stochastic events. Extirpation of the MD Aldergrove population would result in a reduction of 76 percent of the extent of Oregon spotted frog in the Lower Fraser River (COSEWIC 2011, pp. vii–ix). Therefore, populations of Oregon spotted frogs in the Lower Fraser River are declining.

Washington

In Washington, the Oregon spotted frog was historically found in the Puget Trough from the Canadian border to the Columbia River, and east to the Washington Cascades (McAllister *et al.* 1997, p. vii). Current distribution is limited to four watersheds in the Puget Trough, three that drain to Puget Sound and one that drains to the Pacific Ocean, and two watersheds in the southeast Cascades that drain to the Columbia River. In 1997, the locations for 11 historical populations in Washington were verified using museum specimen and published records, and only 1 historically known population and 2 recently discovered populations were known to remain in Washington in 1997 (McAllister *et al.* 1997, p. vii). The authors also stated that past populations of the Oregon spotted frog in Washington are largely undocumented (McAllister *et al.* 1997, p. 18). Current population estimates are based on the 2012 census of egg masses at all known extant breeding areas. Based on these estimates, the minimum population in Washington was at least 7,368 breeding adults in 2012.

Trend data are limited; however, the Oregon spotted frog population in the Middle Klickitat River (Conboy Lake) appears to be declining (see below for further information). The population trend within the rest of the occupied sub-basins is unknown. More detailed discussions of Washington's occupied sub-basins/watersheds are provided below.

Lower Chilliwack River (Sumas River)—In 2012, one Oregon spotted frog breeding area was found on a privately owned dairy farm on a small tributary to the Sumas River (Bohannon *et al.* 2012). The Sumas River is eventually a tributary to the Lower Fraser River, along which the British Columbia breeding areas occur. However, the breeding area on the Sumas River is more than 20 mi (35 km) upstream of the confluence with the Fraser River, and separated by unsuitable aquatic habitat. Therefore, an aquatic connection to the British Columbia breeding areas is not likely (COSEWIC 2011, p. 12). Fewer than 50 egg masses (<100 adults) were found during the 2012 surveys; however, suitable habitat within the Sumas River has not been surveyed extensively (Bohannon *et al.* 2012) and the full extent of Oregon spotted frog distribution and abundance has not been determined.

South Fork Nooksack River—In 2011 and 2012, Oregon spotted frog breeding areas were found on privately owned

parcels in the Black Slough, a tributary of the South Fork Nooksack River. On one parcel, the breeding habitat was in off-channel wetlands dominated by reed canarygrass (*Phalaris arundinacea*) and recent shrub plantings. Breeding areas on other parcels were located within former pasture lands that had been planted with trees and fenced within the last 2 or 3 years under the Conservation Reserve Enhancement Program (CREP) to eliminate grazing and improve water quality (Bohannon *et al.* 2012). At least 230 adults (based on 2012 surveys) are associated with the known breeding areas along the Black Slough; however, this area has not been surveyed extensively (Bohannon *et al.* 2012), and the full extent of Oregon spotted frog distribution and abundance has not been determined.

Samish River—In 2011 and 2012, Oregon spotted frog breeding areas were found on privately owned parcels along the upper reaches of the Samish River. All of the breeding areas are seasonally flooded grazed or formerly grazed pasture lands that are predominantly reed canarygrass (Bohannon *et al.* 2012). At least 1,220 adults (based on 2012 surveys) are associated with the known breeding areas along the Samish River; however, this area has not been surveyed extensively, and the full extent of Oregon spotted frog distribution and abundance has not been determined.

Black River—Oregon spotted frogs occupy wetlands in the floodplain and tributaries of the upper Black River drainage between Black Lake and the town of Littlerock. They are currently known to occur at three locations within the Black River floodplain (Blooms Ditch near 110th Avenue Bridge, near 123rd Avenue, and the confluence with Mima Creek) and in four tributaries: Dempsey Creek, Salmon Creek, Allen Creek, and Beaver Creek (Hallock 2013; WDFW and USFWS multiple data sources). In 2012 and 2013, new breeding locations were detected along Fish Pond Creek system, which flows directly into Black Lake, not Black River. Oregon spotted frog breeding areas in the Black River may be isolated from each other and the frogs associated with the Fish Pond Creek may not be hydrologically connected to frogs in the Black River due to the human alteration of the Black Lake drainage pattern. Further investigation of this recently discovered area is needed.

The full extent of the population's distribution, abundance, and status in the Black River has not been determined. The Black River adult breeding population was comprised of at least 1,748 breeding adults in 2012 (Hallock 2013, p. 27) and 3,330 breeding adults in 2013 (WDFW multiple data sources). Oregon spotted frogs in Dempsey Creek have been monitored relatively consistently since the late 1990s. Other breeding areas in the Black River have been monitored inconsistently or were recently found, and surveys to identify additional breeding locations continue. The Dempsey Creek breeding area may be declining, but the trend for the remainder of the occupied areas is undetermined.

White Salmon River (*Trout Lake Creek*)—Oregon spotted frogs occupy approximately 1,285 ac (520 ha) of the lower Trout Lake Creek watershed, ranging in elevation 1,960–2,080 ft (597–633 m). In total, as of 2012, a minimum population estimate of 2,124 breeding adults (Hallock 2012) associated with 12 breeding areas have been identified. Two of the breeding areas have been monitored since they were found by Leonard (1997). The other locations have been monitored sporadically since they were discovered. Monitoring of egg mass numbers at two breeding areas within the Trout Lake NAP revealed considerable population volatility and a general pattern of decline from 2001 through 2007 (Hallock 2011, p. 8). During the period of egg mass declines, three events of note occurred that could have influenced frogs at the NAP: Annual precipitation was unusually low, cattle grazing was reduced and then eliminated, and frogs infected with chytrid fungus (*Batrachochytrium dendrobatidis* (*Bd*)) were present (Pearl *et al.* 2009b, Hayes *et al.* 2009). While the 2009 through 2012 egg mass counts indicate that Oregon spotted frog numbers may be rebounding within the eastern portions of the NAP, the numbers in the western portion continue to be less than half of the estimates from the 1990s (Hallock 2012, entire).

Middle Klickitat River (*Conboy Lake*)—The extent of Conboy Lake wetland complex habitat occupied by Oregon spotted frogs at high water is approximately 7,462 ac (3,020 ha), ranging in elevation from 1,804–1,896 ft (550–576 m). This wetland complex comprises two lakebeds that are entirely seasonal (except in wet years) and are joined by Camas Ditch, which flows into Outlet Creek, the main drainage for the system that flows northeast into the Klickitat River. There were a minimum of 1,954 breeding adults in the Conboy Lake wetland complex in 2012 (Hallock 2013, p. 27) and 2,714 breeding adults in 2013 (Wilson, in lit. 2013). This used to be the largest Oregon spotted frog population throughout the entire range (highest egg mass count 7,018 in year 1998). However, Oregon spotted frog egg mass surveys suggest a continued long-term decline (approximately 86 percent) since 1998 (Hayes and Hicks 2011, unnumbered pp. 5–6; Hallock 2013, p. 36). This area is subject to similar levels of precipitation as Trout Lake NAP and frogs infected with *Bd* were also present (Pearl *et al.* 2009b, Hayes *et al.* 2009); however, unlike Trout Lake NAP, Oregon spotted frog numbers in this sub-basin are not rebounding. At present, the population trend of Oregon spotted frogs in the Middle Klickitat River is considered to be declining.

Oregon

Population estimates of Oregon spotted frogs in Oregon are primarily based on egg mass surveys conducted in 2011 and 2012 at known extant sites, and newly discovered occupied areas that had been unsurveyed prior to 2012. Population estimates for the Middle Fork Willamette River sub-basin are based on mark-recapture studies conducted by U.S. Geological Survey (USGS) in 2011, rather than egg mass surveys. Based on these survey data, the minimum population estimate in Oregon consists of approximately 12,847 breeding adults. More detailed discussions of Oregon's occupied sub-basins are provided below and are available in our files.

Lower Deschutes River—Within the Lower Deschutes River sub-basin, a single extant population of Oregon spotted frog occurs at Camas Prairie, an 82-ac (33-ha) marsh located along Camas Creek in the White River watershed. The Camas Prairie Oregon spotted frogs are the most geographically isolated, carry several alleles that are absent or rare in other sites, and have the lowest genetic diversity of Oregon spotted frogs rangewide (Blouin *et al.* 2010, p. 2185). The frogs at this location appear to be the only remaining representatives of a major genetic group that is now almost extinct (Blouin *et al.* 2010, p. 2190). Since 2004, egg mass surveys have been conducted annually, and the population trend has been positive. Based on the 2012 egg mass count, the minimum population size of breeding adults is 152 (Corkran 2012, pers. comm.). Although the population trend has been positive at the single known location, the number of individuals in the population remains low.

Upper Deschutes River—Oregon spotted frogs in the Upper Deschutes River sub-basin occur in high-elevation lakes up to 5,000 ft (1,524 m), wetland ponds, and riverine wetlands and oxbows along the Deschutes River.

There are fewer than 20 known breeding locations within four watersheds (HUC 10) in the sub-basin: Charleton Creek, Browns Creek, Fall River, and North Unit Diversion Dam. Most of the known breeding locations are on the Deschutes National Forest in lakes, ponds, and riverine wetlands that drain to the Crane Prairie and Wickiup Reservoir complex, including the use of the wetland margins of the reservoirs. There are at least five known breeding locations downstream of Wickiup Reservoir in riverine wetlands along the Deschutes River, extending to Bend, Oregon: Dead Slough, La Pine SP, Sunriver, Slough Camp, and the Old Mill casting pond, including Les Schwab Amphitheater (LSA) Marsh. Dilman Meadow drains into the Deschutes River below Wickiup Dam via an unnamed tributary.

The consistency of population surveys varies by breeding site, and population trend information is limited. Only two sites within the sub-basin have been monitored consistently since the early 2000s and show an increasing population trend: Dilman Meadow and Sunriver (USGS and J. Bowerman 2000 through 2012 datasets). Trend data are not available for the remainder of populations within the Upper Deschutes River sub-basin. Sunriver, located downstream of Wickiup Reservoir, is the largest population of Oregon spotted frogs within the Upper Deschutes River sub-basin with a population of at least 1,454 breeding adults based on 2012 egg mass surveys (J. Bowerman dataset 2012). A minimum population estimate for the Upper Deschutes River sub-basin (including Sunriver) is approximately 3,530 breeding adults based on surveys since 2006 (USGS 2006 to 2012 and J. Bowerman 2012 datasets).

Little Deschutes River—Oregon spotted frogs are distributed throughout wetland, pond, and riverine habitats in the Little Deschutes River sub-basin, which drains an area of approximately 1,020 square miles (2,600 square km) and flows north from its headwaters in northern Klamath County to its convergence with the Deschutes River 1 mi (1.2 km) south of Sunriver and approximately 20 mi (32 km) south of Bend, Oregon. The Little Deschutes River is approximately 92 mi (148 km) long. Approximately 23 known breeding locations (as of 2012) are within five watersheds in the sub-basin: Upper, Middle, and Lower Little Deschutes River; Crescent Creek; and Long Prairie. Big Marsh, a 2,000-ac (809 ha) wetland located within headwaters at 4,760 ft (1,451 m) elevation on the Deschutes National Forest, has the largest monitored population of Oregon spotted frogs in the Little Deschutes River sub-basin and possibly rangewide. The estimated population size of Big Marsh based on a 2012 U.S. Forest Service (USFS) egg mass survey is 5,324 breeding adults (male and female) (USFS data 2012).

Because 70 percent of the sub-basin is privately owned and mostly unsurveyed, a population estimate for the entire Little Deschutes River sub-basin is difficult to determine. A minimum population estimate of Oregon spotted frogs based on limited survey data from public and private lands in 2012 is approximately 6,628 breeding adults (including Big Marsh above). However, the vast acreage of wetland complexes and suitable habitat for Oregon spotted frogs along the mainstem Little Deschutes River and Crescent Creek indicate that the frog population within the unsurveyed areas may be well above this estimate. Although the trend of the frog population at Big Marsh appears to be increasing based on USFS surveys from 2002 to 2012 (USFS 2002–2012), the population trend of the remainder of frogs within the sub-basin is undetermined.

McKenzie River—Oregon spotted frogs in the McKenzie River sub-basin are located within the South Fork McKenzie River watershed in an area referred to as the Mink Lake Basin in the wilderness of the Willamette National Forest. There are two known breeding populations: One at Penn Lake and one at an unnamed marsh 0.28 mi (0.45 km) north of Mink Lake. The Penn Lake and Unnamed Marsh populations are about 0.93 mi (1.5 km) apart and are not hydrologically connected via surface water. Mark-recapture monitoring of these populations has been conducted by USGS from 2007 through 2011 (Adams *et al.* 2007; 2008, p. 13; 2009, p. 14; 2010, p. 14; and 2011, p. 14). A population estimate for breeding adults in the McKenzie River sub-basin, based on mark-recapture efforts by USGS in 2011 is 217 (i.e., 179 at Penn Lake and 38 at Unnamed Marsh) (Adams *et al.* 2011). However, trend has not been estimated for these populations.

Middle Fork Willamette River—Oregon spotted frogs in the Middle Fork Willamette River sub-basin are limited to a single population at Gold Lake and bog, located in the 465-ac (188-ha) Gold Lake Bog Research Natural Area on the Willamette National Forest within the Salt Creek watershed. This population is one of three remaining populations of Oregon spotted frogs west of the Cascade mountain crest in Oregon. The Gold Lake Bog site consists of three small ponds over an area of approximately 3.7 ac (1.5 ha) within a larger bog where three major streams converge. Breeding surveys are periodically conducted by USGS and the Willamette National Forest. However, long-term trend data are lacking for this site. Based on USGS egg mass surveys in 2007, the estimated population size is approximately 1,458 breeding adults (USGS datasets).

Williamson River—Oregon spotted frogs in the Williamson River sub-basin occur in two watersheds: Klamath Marsh/Jack Creek and Williamson River above Klamath Marsh and consist of three populations: Jack Creek, Klamath Marsh NWR, and the Upper Williamson River. Data from 1996 through the present suggest the Jack Creek population is declining, and the survey data from 2000 through the present suggest that the Klamath Marsh population is stable. Additional data collected in 2013 documented a downstream extension of occupied habitat in Jack Creek (Pearl 2014, pers. comm.). These watersheds are a mixture of both private and public (U.S. Bureau of Land Management (BLM), USFS, and NWR) lands and consist of both wetland and riverine potential habitats from 4,500 to 5,200 ft (1,371 to 1,585 m) in elevation. As of 2011, the minimum population estimate for the sub-basin is approximately 376 breeding individuals (male and female) (KMNWR 2011, USFS 2012, USGS multiple datasets). Permission to survey adjacent private lands has not been obtained; however, the private lands surrounding the public lands appear to have suitable habitat and likely contain additional breeding complexes and individuals.

Upper Klamath Lake—Oregon spotted frogs in the Upper Klamath Lake sub-basin occupy two watersheds that flow into Upper Klamath Lake: Klamath Lake and Wood River. There are four populations in this sub-basin: Crane Creek, Fourmile Creek, Sevenmile Creek, and the Wood River channel and the adjacent but separate BLM Wood River canal. Additional surveys completed in 2013 revealed occupied habitat in Sun Creek, Annie Creek, and more locations of Crane Creek and Sevenmile Creek (Hering 2014, pers. comm.; Pearl 2013, pers. comm.). These populations occur in both riverine and wetland habitats. Historically, these two watersheds were hydrologically connected. Survey efforts on Fourmile Creek, Sevenmile Creek, and the Wood River channel have been sporadic while Crane Creek and the BLM Wood River canal have been surveyed annually. These data suggest that there is still insufficient information to obtain population trends for all but the BLM Wood River canal population, which is

declining. As of 2011, the minimum population estimate for the sub-basin is approximately 374 breeding individuals (male and female) (USGS multiple datasets, BLM multiple datasets). Permission to survey adjacent private lands has not been obtained; however, the private lands surrounding the known populations appear to have suitable habitat and likely contain additional breeding complexes and individuals. Trend data are lacking for three out of four populations in the Upper Klamath Lake.

Upper Klamath—Oregon spotted frogs in the Upper Klamath sub-basin occupy two lacustrine habitats: Parsnip Lakes in Jackson County and Buck Lake in Klamath County. Both of these sites are isolated hydrologically by great distances (>20 mi (32 km)) and hydrological barriers (inhospitable habitat and dams) to other sites in the Klamath Basin. Historical surveys in this sub-basin resulted in a population estimate of about 1,170 adults (range of <0 to 2,379, 95 percent confidence interval) (Hayes 1998a, p. 10; Parker 2009, p. 4). Due to insufficient survey data, population trend information is not available for the Parsnip Lakes population. The most recent surveys found 18 egg masses or 36 breeding individuals (male and female) at Parsnips Lakes (Parker 2009). Surveys conducted at Buck Lake suggest a population decline and have documented most recently small numbers of egg masses (38 masses in 2010), or the equivalent of 76 breeding individual (male and female) (BLM 2012). Additional information indicates that suitable habitat occurs downstream of Buck Lake within Spencer Creek (Smith 2014, pers. comm.). The minimum population estimate for this sub-basin is currently estimated to be 112 breeding individuals suggesting drastic population declines since 1998.

Summary of Current Population Range and Trend

Oregon spotted frogs may no longer occur in as much as 90 percent of their historically documented range, including all of the historical localities in California (i.e., 90 percent of the historical areas are no longer occupied). Currently, the Oregon spotted frog is found in 15 sub-basins ranging from extreme southwestern British Columbia south through the Puget Trough, and in the Cascades Range from south-central Washington at least to the Klamath Basin in Oregon. Oregon spotted frogs occur in lower elevations in British Columbia and Washington and are restricted to higher elevations (i.e., 3,160 to 5,200 ft (963 to 1,585 m) in Oregon. In addition, Oregon spotted frogs currently have a very limited distribution west of the Cascade crest in Oregon and are considered to be extirpated from the Willamette Valley.

In most sub-basins, trend information regarding the collective status of the populations within the sub-basin is limited or not available. The best scientific and commercial information available indicates the trend is undetermined for Oregon spotted frog populations in 13 of the sub-basins and is declining in the Lower Fraser River and Middle Klickitat sub-basins. Threats to the remaining populations are ongoing or increasing, however, as described below.

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 any of the following 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; and (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 threats/factors is discussed below.

Threats for the Oregon spotted frog were assessed by breeding locations and occupied watersheds, then summarized by occupied sub-basin in this final rule. Each of the five threat categories were summarized by sub-basin using the unified threats classification system (loosely based on the IUCN–CMP (World Conservation Union–Conservation Measures Partnership)), best available data, and best professional judgment. We summarized threats in each occupied sub-basin for scope, severity, impact, timing, and stress, to ensure our determination would be based on the best scientific and commercial data available, as required under section 4(b)(1)(A). Scope is the proportion of the occupied area within the sub-basin that can reasonably be expected to be affected. Severity is the level of damage to the species from the threat that can reasonably be expected. Impact summarizes the degree to which a species is observed, inferred, or suspected to be directly or indirectly affected and is based on the combination of the severity and scope rating (for example, if the severity and scope ratings were both high, then the impact rating was high). Timing is the immediacy of the threat (i.e., is the threat ongoing, could happen in the short term, or is only in the past). Stress is the key ecological, demographic, or individual attribute that may be impaired or reduced by a threat. The completed analysis (Threats Synthesis Rangewide Analysis) is available at *http://www.regulations.gov* and *http://www.fws.gov/wafwo*. The syntheses by threat categories are included in the following threat factor discussions.

Large historical losses of wetland habitat have occurred across the range of the Oregon spotted frog. Wetland losses are estimated from between 30 to 85 percent across the species' range with the greatest percentage lost having occurred in British Columbia. These wetland losses have directly influenced the current fragmentation and isolation of remaining Oregon spotted frog populations.

Loss of natural wetland and riverine disturbance processes as a result of human activities has and continues to result in degradation of Oregon spotted frog habitat. Historically, a number of disturbance processes created emergent wetlands favorable to Oregon spotted frogs throughout the PNW: (1) Rivers freely meandered over their floodplains, removing trees and shrubs and baring patches of mineral soil; (2) beavers created a complex mosaic of aquatic habitat types for year-round use; and (3) summer fires burned areas that would be shallow water wetlands during the Oregon spotted frog breeding season the following spring. Today, all of these natural processes are greatly reduced, are impaired, or have been permanently altered as a result of human activities, including stream bank, channel, and wetland modifications; operation of water control structures (e.g., dams and diversions); beaver removal; and fire suppression.

The historical loss of Oregon spotted frog habitats and lasting anthropogenic changes in natural disturbance processes are exacerbated by the introduction of reed canarygrass, nonnative predators, and potentially climate change. In addition, current regulatory mechanisms and voluntary incentive programs designed to benefit fish species have inadvertently led to the continuing decline in quality of Oregon spotted frog habitats in some locations. The current wetland and stream vegetation management paradigm is generally a no-management or restoration approach that often results in succession to a tree- and

shrub-dominated community that unintentionally degrades or eliminates remaining or potential suitable habitat for Oregon spotted frog breeding. Furthermore, incremental wetland loss or degradation continues under the current regulatory mechanisms. If left unmanaged, these factors are anticipated to result in the eventual elimination of remaining suitable Oregon spotted frog habitats or populations. The persistence of habitats required by the species is now largely management-dependent.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Threats to the species' habitat include changes in hydrology due to construction of dams and human-related alterations to seasonal flooding, introduction of nonnative plant and animal species, vegetation succession and encroachment, poor water quality, livestock grazing (in some circumstances), and residential and commercial development.

Habitat losses and alterations affect amphibian species in a variety of ways, including reducing or eliminating immigration through losses of adjacent populations (see ''Factor E'') and effects on critical aspects of the habitat (Hayes and Jennings 1986, pp. 492–494). These critical aspects include suitable egg-laying and nursery sites, refuges from predation or unfavorable environmental conditions, and suitable temperatures necessary for egg laying, growth, and development (Hayes and Jennings 1986, pp. 492–494).

Because Oregon spotted frogs have specific habitat requirements, they are particularly vulnerable to habitat alterations: (1) A restricted number of communal egg-laying locations are used year after year; (2) the species' warm water microhabitat requirement results in habitat overlap with introduced warm water fish species and other warm water fauna that prey on Oregon spotted frogs (for example, bullfrogs); (3) the availability of suitable warm water habitat, a requirement in the active season, is generally limited in the cool climate of the PNW; (4) the species is vulnerable to the loss or alteration of springs used for overwintering; and (5) their habitat requirements (for example, spatial structure) for overwintering, active season, and breeding habitats are more complex than for other frog species (Hayes *et al.* 1997, p. 4). In addition, breeding habitat is arguably the single most important habitat component for many aquatic-breeding amphibians because amphibian embryos and larvae depend on aquatic habitats for survival (Leonard 1997, p. 1).

Loss of Wetlands

British Columbia—Extensive diking of river ways and draining of Sumas Lake for conversion to agriculture significantly modified drainage patterns and resulted in loss of associated wetlands in the Fraser River lowlands of British Columbia (COSEWIC 2011, p. 20). Boyle *et al.* (1997, p. 190) estimated an 85 percent loss of habitat types preferred by Oregon spotted frogs (fen, swamp/bog/marsh) between 1820 and 1990. Moore *et al.* (2003 cited in COSEWIC 2011) found wetland loss continued between 1989 and 1999 as a result of urban and agricultural encroachment. Agricultural land use changes, such as the conversion of field habitat to blueberry and cranberry production, has led to impacts through drain tile installation and riparian area encroachment/erosion. Sediment deposition into streams and wetlands by runoff from adjacent agricultural fields can impact Oregon spotted frog breeding habitat by changing the channel/wetland shape and depth (Lynch and Corbett 1990). Land conversion for agriculture is ongoing at Mountain Slough and to some extent at Maria Slough and Morris Valley (COSFRT 2012, p. 24), within Oregon spotted frog habitat.

Washington—Estimates for Washington indicate that over 33 percent of wetlands were drained, diked, and filled between pre-settlement times and the 1980s (Canning and Stevens 1990, p. 23); losses in the historical range of the Oregon spotted frog are even higher because of the high degree of development in the low elevations of the Puget Trough (McAllister and Leonard 1997, p. 22).

Major alterations to Conboy Lake wetland complex in Washington began when settlers started moving to Glenwood Valley in the late 1800s. Wet meadows were drained through a series of canals, ditches, and dikes largely developed between 1911 and 1914, and remain today. The five creeks that flow into this wetland complex and the Cold Springs ditch are entirely channelized within the wetland complex. Ditching, filling, and other habitat alterations have resulted in little or no retention of surface water in the late-season lakebeds (Conboy Lake and Camas Prairie), reducing the amount of aquatic habitat available for the Oregon spotted frog. The historical Conboy lakebed is believed to have retained water for 10 to 12 months in most years. Currently, it retains water only during wet years and is purposefully drained annually to control bullfrogs (Ludwig 2012, pers. comm.). The Camas Prairie portion of Glenwood Valley retains water year-round over a small area and only in wet years. Typically, aquatic habitat is reduced to about 1,000 ac (400 ha) during the late summer and early fall (Hayes *et al.* 2000), and once the seasonal lakebeds dry, the network of ditches and channels provide the only aquatic habitat for Oregon spotted frogs. In order to maintain sufficient flow through the system, a small area of Bird Creek must be excavated every 2 to 3 years to remove the high level of sand and gravel that is deposited annually from upstream. Most of the other ditches have been cleaned on a much less frequent basis (intervals of up to 20 years), although in the future, the Conboy Lake NWR plans to clean select reaches on a 5–10 year cycle (Ludwig 2012, pers. comm.).

Oregon—Historical losses of wetland in Oregon are estimated at 38 percent between pre-settlement times and the 1980s with 57 and 91 percent of these losses concentrated in the Willamette Valley and Klamath Basin, respectively (Dahl 1990). Wetland loss continues in the Willamette Valley (Daggett *et al.* 1998; Morlan *et al.* 2005). Between 1982 and 1994, a net loss of 6,877 ac (2,783 ha) of wetlands (2.5 percent of the 1982 wetland area) occurred, primarily due to conversion to agriculture (Daggett *et al.* 1998 p. 23), and between 1994 and 2005, an estimated additional net loss of 3,932 ac (1,591 ha) (1.25 percent of the 1994 wetland area) took place, primarily due to development (Morlan *et al.* 2010. pp. 26–27). Oregon spotted frogs are believed to be extirpated from the Willamette Valley.

Human alteration of wetlands in the central Oregon Cascades has had less severe effects since many of the sites inhabited by the Oregon spotted frog are located at high elevation and within lakes and wetlands located on Federal lands managed by the USFS. However, damming and diverting water for irrigation needs has resulted in the loss of wetlands within the Upper Deschutes sub-basin beginning in the early 1900s (see hydrology section below). Wetland loss is also an ongoing threat to Oregon spotted frogs within the Little Deschutes River sub-basin in south Deschutes County, where land development has increased since the 1960s.

A substantial amount of wetland habitat in the Klamath Basin has been drained and converted to other uses, primarily for grazing and row-crop production, although the extent of this loss is difficult to estimate due to a lack of accurate historical data (Larson and Brush 2010). The majority of wetland

degradation and alteration took place in the southern part of the upper basin, where extensive drainage occurred at Tule and Lower Klamath Lakes in the early 20th century (Larson and Brush 2010, p. 4). Wetlands at the north end of the basin, including Sycan Marsh, Klamath Marsh, Upper Klamath Lake, and in the Wood River Valley, have also suffered extensive hydrologic alteration. Ongoing losses are currently minimized due to strict regulations governing wetlands, and there are no known ongoing losses of wetlands in the Klamath Basin. In addition, restoration efforts are under way in the Klamath Basin (see ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range''), reversing wetland losses to some degree. However, because of subsidence, reconnection of former wetlands to Upper Klamath Lake resulted in these areas being too deep to support marsh vegetation, and many of these areas do not support the variety of wildlife that they did formerly when they were marshes. Therefore, these wetlands are unlikely to provide all of their former functions.

Loss of Wetlands Conclusion—Historical loss of wetlands has been extensive throughout the range of the species, and is the primary reason for the absence of the species from as much as, or more than, 90 percent of its former range (also see *Historical Range/Distribution*). Land conversions that result in loss of wetlands are continuing throughout the range. Wetlands continue to be lost or degraded in at least 10 of the 15 occupied sub-basins. Even though these losses are occurring at much lower rates than in the past because of Federal and State regulations that pertain to wetlands (see Factor D), the ongoing loss of wetlands continues to pose a threat to the Oregon spotted frog.

Hydrological Changes

Changing water levels at critical periods in the Oregon spotted frog's life cycle, whether natural or human-induced, has negatively affected the species. Lowered water levels have exposed individuals to predation by reducing cover and confining them to smaller areas where they are more vulnerable to predators (see also Factor C). Water level reduction during the breeding season, due to both natural and anthropogenic causes, has resulted in the loss of the entire reproductive effort for the year due to stranding and desiccation of the egg masses in British Columbia (Licht 1971, p. 122; COSFRT 2012, p. 18), Washington (Lewis *et al.* 2001, p. 8; Hayes *et al.* 2000, pp. 6–7), and Oregon (Pearl and Hayes 2004, p. 24). Excessive seasonal flooding at critical periods has also resulted in the loss of shallow wetlands needed for egg-laying and development.

Most of the currently occupied Oregon spotted frog sites face threats from changes in hydrology. Twenty-one of twenty-eight (75 percent) sites surveyed in Washington and Oregon have had some human-related hydrological alterations, ranging from minor changes (for example, local ditching around springs) to substantial changes, including major modifications of historical flow patterns (Hayes 1997, p. 43; Hayes *et al.*1997, p. 6). Oregon spotted frogs in four of the occupied sub-basins (Lower Fraser River, Middle Klickitat River, Little Deschutes River, and Upper Klamath) are experiencing high to very high impacts due to ongoing hydrological changes based on the unified threats classification system ranking, described above. The altered hydrology has affected both breeding and wintering habitat, as discussed below.

Water Diversions/Manipulations—Dams in the upper watersheds of the Puget Trough, Willamette Valley, and the Deschutes River have significantly reduced the amount of shallow overflow wetland habitat that was historically created by natural flooding (Cushman and Pearl 2007, pp. 16–17). The inundation of large marsh complexes, and habitat fragmentation by the construction of reservoirs in the Cascades, has also eliminated and degraded Oregon spotted frog habitat. We are not aware of proposals for construction of new dams or reservoirs that would pose a threat to the existing Oregon spotted frog populations in British Columbia, Washington, or Oregon. However, the operation of existing dams/diversions/water control structures in Washington and Oregon continues to affect populations of Oregon spotted frogs due to extreme water fluctuations between and within years. These operations inundate and desiccate Oregon spotted frog habitat, while creating and maintaining habitat suitable for nonnative predaceous species.

Water management in the Glenwood Valley, Washington (Middle Klickitat River sub-basin), appears to be playing a significant role in the decline of the Oregon spotted frog in this sub-basin. Water management in this area is complex due to the juxtaposition of private, county, and federal lands, and the location and ownership of water diversion structures. The need to retain water on the Conboy Lake NWR for resources, including the Oregon spotted frog, conflicts with needs of the intermingled and adjacent private landowners who want water drawn down in order to grow reed canarygrass for haying or to graze cattle. In addition, water management on the NWR is constrained by failing dikes, plugged ditches, undersized culverts, and lack of water control structures (USFWS 2012, p. 27). Dewatering by Conboy Lake NWR generally begins June 1, but begins as early as April on privately held lands, which also results in the dewatering of some refuge lands (USFWS 2012, p. 28). The Camas Prairie area of the valley is drained annually to facilitate production of hay and grazing opportunities (USFWS 2012, p. 28).

Dewatering breeding areas during the egg stage results in desiccation of Oregon spotted frog egg masses. Dewatering during the rearing stage results in tadpole mortality if water is not retained through metamorphosis. Physical barriers created by the dike system hinder young frogs (recently metamorphosed) from moving into permanent waters, especially when water is drawn down too quickly or a surface water connection to permanent water is not retained. Disconnection from permanent water occurs in some places in the valley, which results in young frogs becoming stranded and dying. In the areas where a connection to permanent water is retained and frogs are able to move with the water, the frogs become concentrated in smaller areas with predators such as fish and bullfrogs or become easy targets for terrestrial predators (Engler 2006, pers. comm.). This issue is complex, because the nonnative bullfrog is fairly common on the refuge, and studies indicate they can prey heavily on native frog species, including Oregon spotted frog.

Water management can be used as a method to reduce bullfrog tadpole survival by drying up seasonal wetlands completely by early fall. However, widespread drawdowns for bullfrog tadpole control can conflict with the need to provide rearing, movement, and summertime water for Oregon spotted frogs (USFWS 2010b, pp. 36, 63, 67). Surveys since 1998 have documented extensive annual declines in Oregon spotted frog egg mass numbers due to early water drawdowns and perennially low water; therefore, inadequate water or poorly timed water management activities continue to be a threat to Oregon spotted frog that has a significant negative impact on recruitment (the addition of young individuals to the adult population) and survival in the Middle Klickitat River sub-basin.

In the Upper Deschutes River sub-basin in Oregon, regulated water releases from Crane Prairie and Wickiup Reservoirs result in extreme seasonal fluctuations in stream flows that have affected the amount of overwintering and breeding habitat available for Oregon spotted frogs. Prior to the construction of Wickiup Dam in 1947, the Deschutes River below the current dam site exhibited stable flows averaging approximately 730 cubic feet per second (cfs) (20.7 cubic meters per second (cms)) and 660 cfs (18.7 cms) during summer and winter, respectively (Hardin-Davis 1991). Water storage in the reservoirs during winter, water releases in the spring, and water diversions for irrigation result in extremely low winter flows (October through March) in the Deschutes River below Wickiup Dam of approximately 20–30 cfs (0.6–0.8 cms) and high summer flows (July and August) of approximately 1,400 cfs (39.6 cms). Because water releases from Wickiup Reservoir typically occur in early to mid-April, potential breeding habitats downstream of Wickiup Dam on the mainstem Deschutes River may not have sufficient water during the breeding season to facilitate frog movement and breeding unless supported by springs.

Currently, Oregon spotted frog breeding is known to occur in five areas downstream of Wickiup Reservoir along the Deschutes River: Dead Slough, La Pine State Park, Sunriver, Slough Camp, and Old Mill casting pond (including adjacent LSA marsh). Oregon spotted frog habitat at Sunriver Resort has been managed and maintained by Sunriver Nature Center by using weirs to stabilize the water levels from the beginning of the breeding season through metamorphosis, which has resulted in a large and fairly stable population of Oregon spotted frogs, despite the low river flows during the breeding season. Breeding and dispersal of metamorphosing frogs at the Slough Camp site is likely affected by the seasonal timing of storage and release of water from the reservoir each year. Adults have been observed at the inlet to Slough Camp (east side) prior to the flow releases from the reservoir in early April (Higgins 2012, pers. comm.), indicating that frogs may be staging to access breeding habitat that becomes accessible when flows are released for the irrigation season. At the onset of the storage season in October, the east side of Slough Camp drains rapidly of water, which could result in stranding of frogs that have bred and reared in this location. In 2012, Oregon spotted frogs were discovered in a water retention pond at The Old Mill District shops and in a riverine marsh (LSA marsh) across from the pond in downtown Bend, Oregon. The shallow pond, located within 20 ft (6 m) of the Deschutes River, is managed to provide year-round water that supports overwintering frogs. However, the impacts of regulated river flows to Oregon spotted frogs within the LSA marsh remain to be evaluated.

Oregon spotted frog habitat in the Little Deschutes River sub-basin in Oregon are affected by regulated water management downstream of Crescent Lake Dam in Crescent Creek and the Little Deschutes River below the confluence with Crescent Creek. Regulated water releases from Crescent Lake typically occur in June, just after the breeding season. Egg mass stranding has been observed on three separate occasions along the Little Deschutes River, downstream of the confluence with Crescent Creek, prior to the release of irrigation water (Demmer 2012, pers. comm.). Overwintering habitats may be limited when flows from Crescent Lake typically cease in October at the onset of the storage season. Groundwater may be ameliorating the impacts from the regulated water management in Crescent Creek in locations where groundwater discharges to the stream (Gannett *et al.* 2001), but a full analysis has not yet been conducted.

In the Klamath Basin, the Upper Klamath sub-basin populations may be affected by water diversion at Hyatt and Keene Creek dams. Hyatt and Keene Creek dams may divert up to 136 cfs of flow from Keene Creek, in the Klamath Basin, for agricultural, municipal and industrial, and hydroelectric power generation in the Rogue basin (OWRD 2002, 2008). While there is no known surface or subsurface connection between the operation of these facilities and Oregon spotted frog populations in the Parsnip Lakes, these dams may affect flows in Keene Creek, where isolated juvenile Oregon spotted frogs have been observed (Parker 2009, p. 5). The precise effect of water diversion at these facilities on habitat conditions is unknown and has been complicated by grazing practices and the loss of beaver dams in the area (Parker 2009, p. 5). While these facilities reduce Keene Creek flows during the winter and spring, groundwater contributions from Keene Creek reservoir may contribute to wetland conditions during dry summer conditions.

Development—Other hydrological changes result from the development of homes and roads adjacent to wetlands with Oregon spotted frogs. Development introduces new impervious surfaces, which increase the amplitude and frequencies of peak highs and lows in water levels, a hydrologic characteristic that has been implicated in reduced amphibian species diversity in wetlands in King County, Washington (Richter and Azous 1995, p. 308). (See ''Development'' section below for further discussion.) Manmade barriers (e.g., culverts) on roads that intersect streams, rivers, and/or wetlands that disconnect or increase the amplitude of flow may prevent or impede Oregon spotted frog movements between breeding areas and other habitats. However, the extent or severity of this threat is not determinable at this time.

Drought—Changes in water levels due to drought, and exacerbated by human modification, have caused seasonal loss of habitat and degradation of essential shoreline vegetation that has resulted in reduced recruitment regionally (Licht 1971, p. 122; Licht 1974, p. 623). In 1997, Hayes identified 14 of 24 (58 percent) Oregon spotted frog breeding locations across the extant range as having a moderate to high risk from drought (1997, pp. 43–45). Drought risk was based on the potential for a drop in water level that could reduce or eliminate the species' habitat. Sites with the greatest risk included those sites with low precipitation levels and sites dependent upon surface flow rather than flow from springs. Sites with the greatest risk from drought are in the Klamath and Deschutes River basins of Oregon (Hayes 1997, p. 44; Hayes *et al.* 1997, p. 6). The impact of a drought on an Oregon spotted frog population depends on the amount of complex marsh habitat at a site, the availability of alternative breeding and rearing areas, and the abundance of aquatic predators (Pearl 1999, p. 15).

Low water levels resulting from drought may reduce populations of nonnative predators (fish and bullfrogs); however, both Hayes (1997, p. 43) and Pearl (1999, pp. 17–18) hypothesized that low water conditions will increase the overlap between Oregon spotted frogs and nonnative predators, such as brook trout and bullfrogs, by concentrating tadpoles and froglets in the only available habitat. Such increased overlap is expected to increase predation losses of Oregon spotted frogs (Pearl *et al.* 2004, pp. 17–18). Several seasons of low water are expected to cause local population extirpations of Oregon spotted frogs, particularly where a small isolated population occupies a limited marsh habitat that has a high abundance of aquatic predators (Pearl 1999, p. 15). Low water in breeding habitat will also expose eggs to increased ultraviolet radiation and higher mortality

associated with pathogens (Kiesecker *et al.* 2001a, p. 682) (see ''Disease'' under *Factor C* section). Since 1960, the Klamath Basin has had 8 of the 10 lowest inflows for Upper Klamath Lake between 1991 and 2009 (USFWS 2011a, p. 25). This has resulted in poor water quality and reduced Oregon spotted frog reproduction due to desiccation of egg masses (BLM and USFS multiple data sources). In addition, 5 of the 10 sites in the Klamath Basin are vulnerable to water management practices that are timed such that the seasonal life-history needs of the Oregon spotted frog are not met.

Although the Chemult Ranger District, Fremont-Winema National Forest, in Klamath County, Oregon, documented high numbers of egg masses at Jack Creek in 1999 and 2000 (335 and 320 respectively) (Forbes and Peterson 1999, p. 6), drought conditions impacted the Oregon spotted frog populations in subsequent years. The drought occurred during the time period in which the Oregon spotted frog population dramatically declined at Jack Creek (Gervais 2011, p. 15). In 2001, those conditions restricted Oregon spotted frog breeding to three small, disjunct areas representing less than 25 percent of their typical habitat. Although there were sufficient water depths in the breeding pools in 2002, only 17 percent of historical egg mass numbers were detected, and 50 percent of the eggs did not hatch compared to the 68 to 74 percent hatch rates documented by Licht (1974, p. 618). The impacts of the drought were further complicated when Oregon spotted frog habitat was impacted by algal blooms, poor water quality, loss of protective habitat, and alteration of the bank condition (USDA 2009a, pp. 31, 33–34). By 2011, only 1 percent of historical egg mass numbers were documented at this site.

Loss of Beaver—The American beaver (*Castor canadensis*) creates a complex mosaic of aquatic habitat types that provides the seasonal habitat needs of the Oregon spotted frog. Water impoundments created and engineered by beavers result in a water storage reservoir that raises the water table, reduces downstream erosion, lessens flood events (unless the dam is breached), holds water year round, and maintains stream flow during dry periods. Specifically, silt-filled abandoned ponds become shallow wetlands and beaver meadows, which have characteristics ideal for egg-laying. Beaver-maintained ponds retain deeper waters important for summer foraging and growth of metamorphosed frogs, and these ponds also provide overwintering habitat. When hypoxic conditions occur in the wetlands and ponds, the frogs can move to the more oxygenated waters of the associated creek, where they use microhabitat features created by beavers such as large woody debris and bank tunnels (Hallock and Pearson 2001, pp. 9–12; Shovlain 2005, p. 10).

Comparisons of beaver-occupied and not occupied watersheds in Montana in relation to Columbia spotted frog populations found: (a) Beaver watersheds had four times as many lentic and breeding sites as non-beaver watersheds; (b) frog breeding sites were dispersed within beaver drainages, while non-beaver watersheds often had only one frog breeding site; (c) frog breeding sites were evenly distributed across the elevational gradient in beaver watersheds, while they were centered above the watershed midpoint in non-beaver watersheds; (d) frog breeding sites were more dispersed within drainages with evidence of beaver presence than would be expected given the configuration of the underlying lentic habitat and have persisted despite being separated by distances larger than the frog's dispersal ability; (e) beaver watersheds with an average distance of less than 3.1 mi (5 km) between breeding sites showed higher levels of connectivity than did non-beaver watersheds with an average distance of more than 3.1 mi (5 km) between breeding sites; and (f) short beaver watersheds had lower levels of genetic divergence between breeding sites than those in long non-beaver watersheds separated by the same distance, even when distances were within the commonly observed dispersal ability of the frogs (Amish 2006, entire). Columbia and Oregon spotted frogs were separated into two separate species (*Rana pretiosa* (Oregon spotted frog) and *Rana luteiventris* (Columbia spotted frog)), based on genetic analysis (Green *et al.* 1996, 1997). They are closely related species and likely evolved in a similar way, with beavers playing a vital role in how frogs are distributed within a watershed.

By 1900, beavers had been nearly extirpated in the continental United States (Baker and Hill 2003, p. 288). Beavers have made a remarkable comeback in many areas through natural recolonization and relocation efforts (ODFW 2012, p. 1); however, their role as ecological engineers is still severely curtailed region-wide, particularly within human-populated areas, because they are often considered a pest species because they can flood roads and property and destroy trees that are valued by landowners (Baker and Hill 2003, p. 301). In at least one site, a significant Oregon spotted frog decline was attributed to the removal of a series of beaver dams that resulted in water loss within some of the breeding areas leading to high embryo mortality attributed to stranding (Hayes *et al.* 2000, p. 2). In Trout Lake Creek in Washington, the loss of a beaver dam to a natural flood event resulted in a significant decline (117 egg masses in 2001 to 0 in 2012) in Oregon spotted frog reproduction (Hallock 2012, p. 33). Lack of beavers within a watershed has been determined by USFS and BLM to be a threat to maintenance of Oregon spotted frog habitat, and these agencies have identified the Williamson, Upper Klamath Lake, and Upper Klamath sub-basins for reintroduction of beaver to aid Oregon spotted frogs.

The States of Washington and Oregon allow lethal removal of beavers and their dams. Under Washington State law, the beaver is classified as a furbearer (WAC 232–12–007). The owner, the owner's immediate family, an employee, or a tenant of property may shoot or trap a beaver on that property if a threat to crops exists (RCW 77.36.030). In such cases, no special trapping permit is necessary for the use of live traps. However, a special trapping permit is required for the use of all traps other than live traps (RCW 77.15.192, 77.15.194; WAC 232–12–142). It is unlawful to release a beaver anywhere within Washington, other than on the property where it was legally trapped, without a permit to do so (RCW 77.15.250; WAC 232–12–271). To remove or modify a beaver dam, one must have a Hydraulic Project Approval—a permit issued by Washington Department of Fish and Wildlife (WDFW) for work that will use, obstruct, change, or divert the bed or flow of State waters (RCW 77.55). Beavers are present to a varying degree within all Oregon spotted frog occupied sub-basins in Washington and are maintaining breeding habitats in some areas within the South Fork Nooksack River, Black River, White Salmon River, and Middle Klickitat River sub-basins. Active removal of beavers or their dams is occurring in at least the South Fork Nooksack River, Black River, and Middle Klickitat River sub-basins and may be occurring in the other occupied sub-basins in Washington.

Beavers on public lands in Oregon are classified as Protected Furbearers by Oregon Revised Statute (ORS) 496.004 and Oregon Administrative Rule (OAR) 635–050–0050. A trapping license and open season are required to trap beavers on public lands. Beavers on private lands are defined as a Predatory Animal (ORS 610.002) and private landowners

or their agents may lethally remove beavers without a permit from the Oregon Department of Fish and Wildlife (ODFW). Currently, the presence of beavers results in active maintenance of Oregon spotted frog habitat in the Little Deschutes River, Upper Deschutes River, Middle Fork Willamette River, Williamson River, and Upper Klamath Lake sub-basins. Active removal of beavers and their dams can occur in the Oregon spotted frog habitat in all of these occupied sub-basins in Oregon. Under State laws in both Washington and Oregon, it is lawful to kill beavers or to remove or modify beaver dams, and those lawful actions reduce or degrade wetland habitats used by all life stages of Oregon spotted frogs.

Hydrologic Changes Conclusion—A variety of factors affecting the hydrology of wetlands and riverine systems cause the loss or detrimental modification of habitats necessary for the survival and reproduction of Oregon spotted frogs. Within 11 of the 15 sub-basins occupied by the species, water diversions/manipulations, development, drought, and loss of beavers are resulting in hydrological changes that pose a threat to all life stages of the Oregon spotted frog, including loss of or disconnections between breeding, rearing, and overwintering habitat, as well as desiccation or flooding of egg masses. The impact to Oregon spotted frogs of these hydrological changes has been determined—based on our unified threats classification system (Threats Synthesis Rangewide Analysis)—to be moderate to very high in five of the occupied sub-basins: Middle Klickitat River, Upper Deschutes River, Little Deschutes River, Williamson River, and Upper Klamath.

Changes in Vegetation

Oregon spotted frog egg-laying sites are generally characterized by low vegetation canopy coverage and a substrate at least partially covered with the previous year's emergent herbaceous vegetation (Leonard 1997, p. 3; Hayes *et al.* 2000, p. 8; Pearl and Bury 2000, p. 6; Pearl 1999, p. 15). Egg masses are generally found in shallow water over vegetation and are rarely found above open soil or rocky substrates (Hayes *et al.* 2000, p. 8, Pearl and Bury 2000, p. 8). Watson *et al.* (2003, p. 296) found that habitat selection by Oregon spotted frogs during the breeding season was strongly correlated with sedge habitat in Washington. In Oregon, Pearl *et al.* (2009a, p.141) found the dominant vegetation at egg-laying areas to be sedge-rush habitat.

Loss of natural wetland and riverine disturbance processes as a result of human activities has caused, and continues to cause, degradation of Oregon spotted frog habitat. Historically, a number of natural forces created emergent wetlands favorable to Oregon spotted frogs. These forces included rivers meandering over their floodplains, removing trees and shrubs and baring patches of mineral soil; beavers felling trees and woody shrubs, trampling vegetation, and dragging limbs and logs through shallows; and summer fires burning areas that would be shallow water wetlands during the Oregon spotted frog breeding season the following spring. Today, all of these forces are greatly reduced, impaired, or have been permanently altered as a result of human activities. In addition, the current wetland management paradigm is generally a no-management approach that often results in continued invasion by invasive plants or succession to a tree- and shrub-dominated community, both of which are unsuitable for Oregon spotted frog breeding.

Invasive plants such as reed canarygrass may completely change the structure of wetland environments, and can create dense areas of vegetation unsuitable as Oregon spotted frog habitat (McAllister and Leonard 1997, p. 23). Reed canarygrass competitively excludes other native plant species and limits the biological and habitat diversity of host wetland and riparian habitats (Antieau 1998, p. 2). Reed canarygrass also removes large quantities of water through evapotranspiration, potentially affecting shallow groundwater hydrologic characteristics (Antieau 1998, p. 2). Reed canarygrass dominates large areas of Oregon spotted frog habitat at lower elevations (Hayes 1997, p. 44; Hayes *et al.* 1997, p. 6) and is broadening its range to high-elevation (i.e., above 4,500 feet (>1,371 m)) Oregon spotted frog habitat in the Little Deschutes and Upper Deschutes River sub-basins in Oregon (USDA 2008, USDA 2009b, USDA 2009c, and USDA 2011b). Watson *et al.* (2003, p. 296) compared the types and amount of habitat used by Oregon spotted frogs and found the frogs used areas of reed canarygrass less frequently than other habitats based on availability. Given this apparent avoidance of reed canarygrass, vegetation shifts to reed canarygrass dominance in wetlands occupied by Oregon spotted frogs are likely affecting Oregon spotted frog breeding behavior.

Studies conducted in Washington (White 2002, pp. 45–46; Pearl and Hayes 2004, pp. 22–23) demonstrated that the quality of breeding habitats for Oregon spotted frogs is improved by reducing the height of the previous years' emergent vegetation (i.e., reed canarygrass in these cases). However, improvement in breeding habitat for Oregon spotted frogs was retained only if vegetation management was maintained. For example, in all occupied sub-basins in Washington and in the Klamath sub-basin in Oregon, an indirect effect of the removal of cattle grazing has been the reduction in the amount and quality of breeding and rearing habitat due to encroachment by vegetation, such as reed canarygrass and shrubs. The effects of grazing vary among sites and likely depend on a suite of factors including, but not limited to, timing, intensity, duration, and how these factors interact with seasonal habitat use patterns of Oregon spotted frog.

Reed canarygrass is present at three of the British Columbia breeding areas and is the dominant vegetation at most of the breeding areas in Washington. In Oregon, reed canarygrass is colonizing portions of Big Marsh and Little Lava Lake, both of which are headwaters to the Little Deschutes and Upper Deschutes River sub-basins, respectively. Reed canarygrass also is present in Oregon spotted frog habitat at Lava Lake, Davis Lake, Wickiup Reservoir, multiple sites along the Little Deschutes River (i.e., 7 out of 13 surveyed sites), Slough Camp, Wood River Wetland, the Klamath Marsh NWR, Fourmile Creek, and the Williamson River. The impact to Oregon spotted frogs due to habitat loss from reed canarygrass invasion has been determined through our threat analyses to be high to very high in seven sub-basins: Lower Fraser River in British Columbia and all sub-basins in Washington. The effects of reed canarygrass to Oregon spotted frog habitat are considered to be moderate in two sub-basins in Oregon: Little Deschutes River and Upper Deschutes River.

Vegetation succession was indicated as a negative factor at almost all remaining Oregon spotted frog sites analyzed by Hayes, who noted that some sites were particularly vulnerable to habitat loss where marsh-to-meadow changes were occurring (Hayes 1997, p. 45). Pearl (1999, p. 15) suggested that the aquatic habitat types necessary for Oregon spotted frog reproductive sites in lake basins exist only within a narrow successional window. As marsh size decreases due to plant succession, shallow warm water sites required by Oregon spotted frogs are lost to increased shading by woody vegetation (Pearl 1999, pp. 15–16). Investigations by Hayes (1997, p. 45) and Pearl (1999,

p. 16) ranked 22 of 28 Oregon spotted frog sites as having a moderate or high threat from vegetation succession. Encroachment around and into marshes by lodgepole pine and other woody vegetation is occurring at Conboy Lake in Washington (Ludwig 2011, p. 3) and at multiple breeding locations in Oregon, and is likely facilitated by ditching and draining of wetter sites to improve grazing (Cushman and Pearl 2007, p. 17). The highest impact to Oregon spotted frogs resulting from lodgepole pine encroachment is taking place in the Upper Deschutes River sub-basin and in the upper elevations of the Little Deschutes River sub-basin in Oregon, where these breeding habitats (i.e., those within the riparian lodgepole plant association group), evolved with fire as a natural disturbance process. The loss of natural fire cycles in forests of the eastern Cascade Mountains due to suppression on National Forest land since 1910 (Agee 1993, p. 58) has allowed succession to continue without disturbance. Plot data suggest that historical fire return intervals for riparian lodgepole pine vegetation types in central Oregon ranged from 12 to 36 years and averaged 24 years (Simpson 2007, p. 9–6), indicating that this disturbance process was more frequent historically in this forest type.

The United States Department of Agriculture's Natural Resources Conservation Service (NRCS) and Farm Service Agency have several voluntary programs, including the Wetland Reserve Program (WRP), CREP, and Wildlife Habitat Incentive Program. The WRP and CREP are voluntary programs designed to help landowners address concerns regarding the use of natural resources and promote landowner conservation. Under the WRP, landowners enter into a voluntary agreement with NRCS to protect, restore, and enhance wetlands on their property. Various enrollment options are available to landowners, including Permanent Easements, 30-Year Easements, Restoration Cost-Share Agreements, or 30-Year Contracts (USDA NRCS 2013). Under the CREP, the Farm Service Agency provides payments to landowners who sign a contract committing to keeping lands out of agricultural production for a period of 10 to 15 years. NRCS produces technical guidelines generally aimed at improving soil conditions, agricultural productivity, and water quality, which generally do not result in specific conservation measures for the protection of the Oregon spotted frog. Rather, restoration actions funded or carried out by NRCS include planting trees and shrubs in riparian areas.

These activities have had unforeseen consequences to Oregon spotted frog habitat by degrading breeding habitat because, as discussed above, tree- and shrub-dominated communities are unsuitable for Oregon spotted frog breeding. This is known to have occurred within the last 10 years at breeding locations in Black, Samish, and South Fork Nooksack Rivers in Washington (Nisqually NWR; Bohannon *et al.* 2012) and may be happening elsewhere. Currently, one known occupied private land parcel has entered into a WRP agreement in the Klamath Basin in Oregon. The WRP agreement for this particular parcel allows no grazing in perpetuity, which, in the long term, may result in reduced quality of Oregon spotted frog habitat. We are aware of at least one CREP contract in the South Fork Nooksack River sub-basin that resulted in conifer tree plantings in Oregon spotted frog breeding locations, which resulted in the wetted areas becoming drier and mostly shaded. The Service has had preliminary discussions with NRCS and is working with the agency to address this management issue.

Changes in vegetation conclusion—Expansion of reed canarygrass into Oregon spotted frog habitat poses a threat to the continued existence of these habitats given the invasive nature of the plant and its ability to outcompete native vegetation in wetland habitats. Shallow water wetlands inhabited by Oregon spotted frog are threatened through rapid encroachment of the grass and increased evapotranspiration of water. Loss of habitat at breeding sites due to reed canarygrass is high to very high in seven occupied sub-basins in British Columbia and Washington. Reed canarygrass poses a threat in the Little Deschutes and Upper Deschutes River sub-basins in Oregon, and is present at varying abundances in many locations occupied by Oregon spotted frog.

Vegetation succession, particularly where natural disturbance processes are lacking, is a negative factor at almost all Oregon spotted frog sites. Structural changes to vegetation that occur through succession, whether from native or nonnative grasses, shrubs, or trees, results in decreased wetland size and amount of open water area available to frogs. Furthermore, shrub and tree encroachment increases shading of shallow warm water sites required by Oregon spotted frogs for breeding and rearing. Encroachment by lodgepole pine and other woody vegetation is occurring at multiple breeding locations in Washington and Oregon and is considered a threat in at least seven sub-basins: Lower Deschutes River, Upper Deschutes River, McKenzie River, Middle Fork Willamette River, Williamson River, Upper Klamath Lake, and Upper Klamath. Unintended loss of habitat is taking place as a result of riparian restoration activities that remove grazing and plant shrubs and trees within sub-basins occupied by Oregon spotted frogs in Washington and Oregon. Therefore, based on the best scientific information available, changes in vegetation pose a threat to Oregon spotted frogs due to habitat loss and modification throughout the range of the species.

Development

Removal or alteration of natural riparian vegetation around watercourses or wetlands for urban or agricultural development compromises aquatic ecosystem function via reductions in biodiversity and water quality and quantity. Residential and commercial encroachment often destroys or disturbs natural vegetation, alters water flows and seasonal flooding, or results in the loss of entire wetland complexes. Agricultural practices, including grazing, can result in the rapid removal of water across the landscape for stimulation of early grass production. All of these factors have been shown to reduce the survival and reproductive capacity of Oregon spotted frogs, as discussed previously.

Although the historical impact of development has significantly reduced the abundance and geographic distributions of Oregon spotted frogs (for example, the Fraser River Valley in British Columbia, Puget Trough in Washington, and Willamette Valley in Oregon), development is currently an ongoing threat at only a few specific locations. In British Columbia, housing and residential developments continue to remove or alter habitat at Mountain and Maria Sloughs, and there are new commercial developments at Mountain Slough (COSFRT 2012, p. 26).

In Washington, some counties prohibit draining of wetlands and some counties require setbacks from wetlands (see Factor D for further information), but this is not consistent, nor consistently implemented. In addition, a large proportion of the breeding areas for Oregon spotted frogs in Washington is not technically classified as a wetland under the county definitions because these areas are seasonally flooded pastures. The private lands surrounding breeding areas for the Oregon spotted frog in most of the occupied sub-basins are presently zoned as rural or rural

residential, which is designed only to allow low-density housing and maintain the rural and agricultural uses. However, the human populations of all counties in the Puget Sound area are growing and Thurston, Whatcom, and Skagit Counties have the 6th, 9th, and 10th largest populations, respectively, among Washington State's 39 counties (U.S. Census Bureau data downloaded August 29, 2012). Between 1990 and 2011, the populations in these three counties have doubled. This population increase is expected to continue, resulting in new residential and commercial developments that are likely to alter vegetation, water flow, and the seasonal flooding that creates and maintains habitat for Oregon spotted frogs.

Development of land along the Little Deschutes River and its tributaries in Oregon is a continued threat to the Oregon spotted frog due to loss or modification of its habitat. The rural character of the Little Deschutes River watershed, the attractive location of private property on the Little Deschutes River, and relatively inexpensive land prices have contributed to a rapidly growing population (UDWC 2002, p. 12). In the 1960s and 1970s before Oregon Statewide planning regulated growth and development, 15,000 one- and two-acre lots were created in subdivisions in the vicinity of the Little Deschutes River. Since 1989, Deschutes County has been the fastest growing county in Oregon on a percentage basis. The unincorporated areas of Deschutes County, including the lower portions of the Little Deschutes River, are projected to increase in population size by as much as 56 percent above the 2000 level over the next 20 years (UDWC 2002, p. 12). This rapid population growth rate is expected to continue into the future (UDWC 2002, p. 12), thereby increasing risks to wetland habitats that support Oregon spotted frogs in the vicinity of the Little Deschutes River.

Development in the Klamath Basin is also increasing in Oregon. The population of Klamath County increased 10.5 percent from 1990 to 2000 (U.S. Census Bureau 2008) and annual housing starts have increased by 13 percent since 2000 (Portland State University 2011 Web site). Much of the growth is outside of city boundaries, and several large residential developments are within or adjacent to wetlands that historically had the ability to support Oregon spotted frog habitat. In addition, agricultural practices, including grazing, occur extensively within all three occupied sub-basins. This has the potential to result in the desiccation or inundation of Oregon spotted frog habitat (see the ''*Oregon*'' discussion under ''Livestock Grazing,'' below). While it is unknown to what extent urban development has impacted Oregon spotted frog habitat, agricultural development is ongoing and continues to impact Oregon spotted frog habitat.

Development conclusion—Development of residential, commercial, and agricultural properties is continuing in at least 10 of the sub-basins occupied by the Oregon spotted frog. In some areas, the human population is expected to continue to grow. Development activities directly and indirectly have removed or altered habitat necessary to support all life stages of Oregon spotted frogs. Therefore, we consider development—both at the present time and in the future—to be a threat to the Oregon spotted frog due to loss or modification of its habitat.

Livestock Grazing

In several riparian zones and wetland complexes in British Columbia, Washington, and Oregon, livestock grazing occurs within Oregon spotted frog habitat, although its effects vary with the site conditions, livestock numbers, timing, and intensity. Livestock (primarily horses and cows) can cause direct mortality by trampling adult frogs (Ross *et al.* 1999, p. 163) and egg masses when livestock are allowed in shallow water habitat when frogs are present. Livestock graze and trample emergent and riparian vegetation, compact soil in riparian and upland areas, and reduce bank stability, which results in increased sedimentation and water pollution via urine and feces (Hayes 1997, p. 44; Hayes 1998b, p. 8; 61 FR 25813). The resulting increases in temperature and sediment production, alterations to stream morphology, effects on prey organisms, and changes in water quality negatively affect Oregon spotted frog habitat. Livestock trampling compacts affected soils and decreases soil porosity, which results in reduced water holding capacity (Kauffman and Krueger 1984, p. 434). Livestock also act as vectors for the introduction of weed seeds that alter riparian vegetation characteristics (Belsky and Gelbard 2000, p. 9), and they are a source of introduced parasites and pathogens (see *Factor C* discussion).

Fourteen of twenty-eight (50 percent) sites surveyed in British Columbia, Washington, and Oregon were directly or indirectly influenced (negatively and positively) by livestock grazing (Hayes 1997, p. 44; Hayes *et al.* 1997, p. 6; Pearl 1999, p. 16). Severe habitat modification has been caused by cattle at several Oregon spotted frog localities in Oregon. Large numbers of cattle at a site negatively affect habitat for Oregon spotted frogs, particularly at springs used by frogs as overwintering sites (Hayes 1997, p. 44). However, in recent work monitoring the effects of livestock grazing on Oregon spotted frogs in grazed and ungrazed treatments at Jack Creek on the Fremont Winema National Forests in Oregon, Shovlain (2009, entire) suggested that Oregon spotted frogs did not modify their habitat use in response to increased grazing pressure in summer-time habitats. However, Shovlain's analyses may have been affected by a relatively low sample size and unbalanced data, the inability to account for frog habitat use outside of the plots, as well as the possibility that the frog's habitat use was related to the availability of water rather than vegetation density or livestock effects (Shovlain 2009, pp. 11–12). In summer-time habitat, livestock, in particular cattle, may increase Oregon spotted frog's susceptibility to desiccation and trampling if both frogs and livestock are using the same remnant pools. In addition, cattle can impact the quantity of available water. A cow can drink 15 to 20 gallons of water per day (Engle 2002, cited in USDA 2004, p. 31). For example, Jack Creek and its tributaries provide the only sustained water to cow-calf pairs within the Jack Creek grazing allotment, and the cows are on the allotment for about 100 days per year (USDA 2004, p. 31). During drought years, such as 2000 through 2004 (see ''*Drought*'' discussion, above), the remnant pools, with the added pressure of livestock, may dry up, resulting in frogs being stranded and desiccating.

Moderate livestock grazing can, in some instances (for example, Dempsey Creek in Washington), benefit Oregon spotted frogs by maintaining openings in the vegetation in highly altered wetland communities (Hayes 1997, p. 44; Hayes *et al.* 1997, p. 6; McAllister and Leonard 1997, p. 25). Watson *et al.* (2003, p. 299) found that habitat at 78 percent of the Oregon spotted frog locations surveyed at the Dempsey Creek site had signs of grazing, which created penetrable, open habitat that was otherwise too dense for frog use.

British Columbia—Only one known breeding location (Morris Valley) in the Lower Fraser River sub-basin is grazed (by horses) (COSEWIC 2011, p. 33), and grazing is identified as a specific concern for Oregon spotted frogs at this location because of the potential for trampling of egg masses, bank erosion, and input of feces (COSEWIC 2011, p. 33).

Washington—In the recent past, it appears that grazing was beneficial to

Oregon spotted frogs at all remaining breeding areas in Washington; however, grazing no longer occurs in the breeding areas in four of the six sub-basins due to land manager preferences and/or water quality regulations that prohibit grazing within certain distances from rivers and wetlands. Active management is required to maintain the Oregon spotted frog habitat at these locations due to heavy reed canarygrass infestations, but funding is limited and grazing had been the least expensive and easiest management option. In the Black River, grazing ceased along Dempsey Creek when the privately owned dairy operation was sold. Cows were reintroduced to the Port Blakely Tree Farm and Musgrove (Nisqually NWR) parcels in 2008 (USFWS 2011b), as part of a reed canarygrass control experiment; however, Oregon spotted frog egg mass numbers have not increased as was expected (WDFW 2011 database; USFWS 2011b). Grazing occurs at the only known breeding location in the Lower Chilliwack River sub-basin. This site has likely persisted as a result of dairy cows maintaining the site in a state of early seral habitat (Bohannon *et al.* 2012, p. 17).

Oregon—Overgrazing of the Camas Prairie in Oregon was considered a threat to Oregon spotted frog prior to 2008, after which grazing was restricted (Corkran 2012). Overgrazing by cattle reduced the vegetative hiding cover for frogs, making them more susceptible to predation. Livestock-induced fertilization resulted in an increased density of the aquatic vegetation, which inhibited the ability of frogs to drop below the water's surface when threatened by predation while basking (Corkran 2012, pers. comm). However, grazing may be considered as a management tool to maintain early seral habitat for Oregon spotted frogs in the future if necessary (Corkran 2012, pers. comm).

None of the central Oregon Cascade breeding locations within the Deschutes and Willamette National Forests is within grazing allotments. Known breeding locations occur within allotments on the BLM Prineville District lands along Crescent Creek, Long Prairie Creek, and the Little Deschutes River. Currently, only the Crescent Creek area is affected by active grazing on BLM lands, although there is potential for grazing to occur on BLM lands along the Little Deschutes River. Grazing has been cited as an impact to riparian and wetland habitats on private lands along the Little Deschutes River (The Wetlands Conservancy, 2004, p. 22). Wetland habitats in the Little Deschutes River sub-basin have been negatively impacted by grazing through removal of riparian vegetation, which destabilizes banks and increases channel incision, resulting in less water retention in riparian wetlands and conifer encroachment (UDWC 2002, pp. 21 and 53).

Six sites in the Klamath Basin are associated with grazing: Jack Creek, Buck Lake, Parsnip Lakes, and on private lands on the Wood River, Williamson River, and adjacent to Klamath Marsh NWR. These sites are potentially vulnerable to both the direct impacts of grazing sedimentation, trampling, as well as the indirect effect of egg mass desiccation resulting from water management techniques that drain water early in frog breeding season to stimulate grass production. Livestock grazing is cited as a specific concern for Oregon spotted frogs at Jack Creek, Fremont-Winema National Forest, Chemult Ranger District, in Oregon (USDA 2004, pp. 56–57). Since 1999, the population has reduced from 670 breeding adults (335 egg masses) to 34 breeding adults (17 egg masses) in 2011. The two primary breeding sites in Jack Creek occur on private land that is heavily grazed in combination with USFS allotments. This intensity of grazing is expected to have degraded the quality of the Oregon spotted frog breeding habitat and reduced reproduction (Shovlain 2005).

Since 2008, current USFS management at the Jack Creek site has not permitted cattle grazing on lands occupied by Oregon spotted frogs (Markus 2012, pers. comm.). However, 419 cow/calf pairs specifically permitted for grazing have access to 61 ac (25 ha) of potential, but not currently supporting, Oregon spotted frog habitat on this 68,349-ac (27,660-ha) combination of USFS and private pasture. Within this pasture, however, there are several riparian areas accessible to grazing cattle as well as one offsite watering source installed on adjacent private land. The permittee for this pasture has grazed their private lands where Oregon spotted frogs are known to occur, although the number of cattle and timing are not known. However, the permittee has also partnered with the Service to complete multiple conservation actions to benefit Oregon spotted frogs and their habitats on their private lands including—but not limited to—the installation of 2 to 3 offsite watering sources, protection of frog ponds, thinning of encroaching lodgepole pine trees, and installation of a wattle for water retention (Markus 2012, pers. comm.).

Conflicts between cattle and frogs increase when stream flows are limited, especially when cattle are using the creek for drinking (Gervais 2011, p. 15). Between 2001 and 2005, and again in 2007, drought conditions affected habitat for Oregon spotted frogs in the Chemult Ranger District, Fremont-Winema National Forest in Oregon. However, until 2008, when grazing was restricted, 419 cow/calf pairs had access to the habitat areas associated with Oregon spotted frogs (Gervais 2011, p. 11). Cattle were observed congregating in Oregon spotted frog habitat because nearly every other water source in the allotment went dry (Simpson 2002, pers. comm.). Trampling of frogs by cattle and alterations in water quality, bank structure, and loss of protective vegetation compounded the impacts of the reduction of available habitat due to drought conditions on Oregon spotted frog reproduction (USDA 2009a, pp. 31, 33–34).

Livestock Grazing Conclusion—Where livestock grazing coincides with Oregon spotted frog habitat, impacts to the species include trampling of frogs and changes in habitat quality due to increased sedimentation, increased water temperatures, water management techniques, and reduced water quality. The effects of livestock grazing vary with site conditions, livestock numbers, and timing and intensity of grazing. In Washington, all of the known occupied areas have been grazed in the recent past, but where grazing has been removed, heavy infestations by invasive reed canarygrass have reduced or eliminated habitat for Oregon spotted frogs unless other management techniques were applied. In controlled circumstances, moderate grazing can be beneficial if it is the only practical method for controlling invasive, nonnative vegetation and sustaining short vegetation characteristics needed for egg laying. Grazing is ongoing in 10 of the occupied sub-basins and is considered to be a threat to Oregon spotted frogs at these locations.

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

British Columbia—Past and ongoing habitat conservation activities in British Columbia include habitat creation at MD Aldergrove, Maria Slough, and Mountain Slough; habitat rehabilitation at Maria and Mountain Sloughs; and invasive grass species management at MD Aldergrove, Maria Slough, and Mountain Slough. There also is a landowner stewardship contact program that encourages stewardship activities at Mountain Slough. However, the Service concluded that these measures are not sufficient to ameliorate threats to

Oregon spotted frogs in the Lower Fraser River.

Washington—In Washington, some reed canarygrass management is taking place at most of the breeding locations in the Black River, on the Trout Lake NAP, and at Conboy Lake NWR. These management techniques include mowing, burning, cattle grazing, and shade cloth. However, these management techniques are not widespread at any one location or adequate to prevent loss of egg-laying habitat.

Conboy Lake NWR in Washington has completed several wetland restoration projects to restore natural hydrological processes to portions of the refuge. This enabled the NWR to maintain independent water management of several wetlands, regardless of the water-related impacts of local landowners. However, under current management, water is not retained throughout the year on most of the NWR and adjacent private wetlands, and many of these areas that had Oregon spotted frogs in the late 1990s no longer have Oregon spotted frogs.

Cattle grazing ceased at Trout Lake NAP in Washington after a monitoring study showed no apparent positive effect on the Oregon spotted frog population trends (Wilderman and Hallock 2004, p. 10), indicating either that grazing was not an effective tool for reed canarygrass management at this location, or that perhaps reed canarygrass was not as threatening to breeding frogs at this location as previously thought. This may be because winter snow pack flattens the reed canarygrass, creating a mostly sun-exposed water surface available to Oregon spotted frogs during the breeding season. The observed negative consequences of grazing, while perhaps acceptable if there was clear benefit to the Oregon spotted frog populations, were not compatible with other site management goals and posed a limitation to future restoration on the site (Wilderman and Hallock 2004, p. 14). Instead, problematic areas of reed canarygrass are being managed using ground barriers and occasional fall mowing (Hallock 2012, p. 31).

Under the Washington State Forest Practices Act, Washington Department of Natural Resources (WDNR) must approve certain activities related to growing, harvesting, or processing timber on all local government, State, and privately owned forest lands. WDNR's mission is to protect public resources while maintaining a viable timber industry. The primary goal of the forest practices rules is to achieve protection of water quality, fish and wildlife habitat, and capital improvements while ensuring that harvested areas are reforested. Presently, the Washington State Forest Practices Rules do not specifically protect Oregon spotted frogs; however, they do include protection measures for surface waters and wetlands. The intent of the protection measures, such as buffers on wetlands, is to limit excess coarse and fine sediment delivery and to maintain hydrologic regimes. Tree harvest is limited in wetland buffers, which may in turn facilitate vegetation encroachment. Landowners have the option to develop a management plan for the species if it resides on their property, or if landowners choose not to develop a management plan for the species with WDFW, their forest practices application will be conditioned to protect this public resource. While the Washington State Forest Practices Rules provide some protections for the Oregon spotted frog and its habitat, the direct and indirect consequences of limiting tree harvest within the wetland buffer is vegetation encroachment that is resulting in loss of wetlands (i.e., reduced size) and shading.

NRCS is overseeing the restoration at two Samish River locations and is incorporating Oregon spotted frog breeding habitat requirements into its planned restoration (that originally included de-leveling and tree and shrub plantings in the breeding areas) (Bohannan *et al.* 2012, p. 17).

Oregon—In Oregon, several conservation actions have been and continue to be implemented for Oregon spotted frogs in the Deschutes River Basin. Sunriver Nature Center has been monitoring the frog population at the Sunriver Resort since 2000. Although this area is affected by the fluctuating flows out of Wickiup Reservoir, Sunriver Nature Center has constructed weirs that allow the water level to be steady or rising from the time of egg-laying through hatching, thus assisting the persistence of this large and stable population. The Deschutes National Forest has closed perimeter ditches at Big Marsh, where past drainage and grazing had led to degradation of the marsh. The Mt. Hood National Forest has fenced sections of Camas Prairie and restricted excessive grazing of the meadow. Implementation of these conservation actions is expected to improve breeding success of Oregon spotted frogs at these locations, but data confirming this hypothesis are not yet available. In addition, BLM's Prineville District Office recently completed encroachment removal projects and repairs to headcuts in systems that have had historically or currently have Oregon spotted frogs. Headcutting is a process of active erosion in a channel caused by an abrupt change in slope. Turbulence in the water undercuts substrate material resulting in collapse of the upper level. This under-cut-collapse process advances up the stream channel. The results of BLM's efforts are unknown at this time; however, they were completed specifically to ameliorate threats to Oregon spotted frog habitat.

Since 1994, in the Oregon portion of the Klamath Basin, the Service's Partners for Fish and Wildlife Program, in collaboration with private landowners, has restored approximately 8,832 ac (3,568 ha) of wetlands adjacent to Upper Klamath Lake. Several habitat restoration projects are underway in known occupied areas including Crane Creek, Sevenmile Creek, Jack Creek, and the Upper Williamson River. Restoration projects include re-channelizing creeks and rivers to provide breeding and rearing habitat, construction of breeding ponds, construction of riparian fences to exclude cattle, and the installation of alternate water sources. To date, Oregon spotted frogs have been detected in only one restored, previously unoccupied wetland area, although survey efforts in restored habitats have not yet been completed.

The BLM's Klamath Falls Field Office has initiated several habitat restoration projects within their Wood River Wetland property, including installation of water control structures, construction of breeding ponds, and canal restructuring for additional breeding areas. To date, 3,000 ac (1,214 ha) of wetland habitats associated with the Wood River Canal have been restored. However, for reasons unknown, Oregon spotted frogs have not been detected in the restored wetlands, but rather have only been associated with the canal system (BLM multiple data sources). BLM actively manages the water in the canal during the breeding season to prevent stranding and inundating Oregon spotted frog egg masses.

The Fremont-Winema National Forest, Chemult Ranger District, in the Oregon portion of the Klamath Basin has initiated a project to restore habitat along Jack Creek, which as of 2008, includes the removal of cattle from a portion of the lands owned by the USFS (Gervais 2011 p. 9). In addition, encroaching lodgepole pine (Gervais 2011 pp. 11–12) has been thinned on both USFS and private lands as a result of this project. In cooperation with adjacent private landowners, the USFS recently released seven beavers into the

Jack Creek watershed (Simpson 2012, pers. comm.), which is intended to increase the open water and breeding habitat for Oregon spotted frogs. One of the private landowners has also installed log fences to protect three Oregon spotted frog pools, and two off-stream water sources to exclude cattle from riparian areas, and wattle installment (a fabrication of poles interwoven with slender branches) for water retention (Markus 2012, pers. comm.). In addition, in 2009, the USFS installed fences at Buck Meadow to control grazing on the USFS lands (Lerum 2012, p. 18). The long-term benefits of the USFS efforts are unknown at this time; however, these actions were completed to specifically ameliorate threats to the Oregon spotted frog's habitat.

The USFS has completed and continues to work on Oregon spotted frog site management plans that identify threats and management actions to reduce threats at each of the following sites: Sevenmile, Jack Creek, Buck Lake, Dilman Meadow, Hosmer Lake, Lava and Little Lava Lake, Big Marsh, Odell/Davis Lake, Little Cultus Lake, Mink Lake Basin, and Gold Lake. Implementation of management actions is voluntary and dependent upon funding, and will likely occur at the District level.

The comprehensive conservation plan (CCP) for Klamath Marsh NWR includes conservation actions for maintaining or improving local habitat conditions for the benefit of Oregon spotted frogs on NWR property. These include: Restoring or maintaining hydrologic regimes, protecting and restoring ephemeral and permanent wetlands, restoring or maintaining open water and early seral vegetation communities, reevaluating or discontinuing fish stocking practices, developing comprehensive grazing strategies or adaptive management plans where livestock occur in habitat, and working locally and cooperatively to maintain and restore habitat conditions and to monitor the outcomes of management actions for Oregon spotted frog (USFWS 2010a, p. 72). The CCPs detail program planning levels that are sometimes substantially above current budget allocations and are primarily used for strategic planning and priority setting; thus inclusion of a project in a CCP does not guarantee that the project will be implemented. However, implementation of the above conservation actions within the CCP could benefit a minimum of 338 breeding individuals. These actions are expected to improve the status of the Oregon spotted frog on the Klamath Marsh NWR if adequate budget allocations are provided and the projects are implemented. Existing wetland restoration activities at Klamath Marsh NWR have been limited to invasive weed management (Mauser 2012, pers. comm.).

Summary of habitat or range destruction, modification, or curtailment—Past human actions have destroyed, modified, and curtailed the range and habitat available for the Oregon spotted frog, which is now absent from an estimated 76 to 90 percent of its former range. The loss of wetlands is continuing at certain locations in at least 10 of the 15 remaining occupied sub-basins, particularly on private lands. The historical and ongoing alteration of hydrological processes resulting from the operation of existing water diversions/manipulation structures, existing and new roads, residential development, agricultural areas, and the removal of beavers continues to impact Oregon spotted frogs and their habitat. The changes in hydrology result in the loss of breeding through inundation or desiccation of egg masses, loss or degradation of habitat necessary for all Oregon spotted frog life stages, and the creation of habitat conditions that support nonnative predaceous species.

Reed canarygrass invasions, plant succession, and restoration plantings continue to modify and reduce the amount and quality of habitat necessary for all Oregon spotted frog life stages. The timing and intensity of livestock grazing, or lack thereof, continues to change the quality of Oregon spotted frog habitat in British Columbia, Washington, and Oregon due to increased sedimentation, increased water temperatures, and reduced water quality. Oregon spotted frogs in all currently occupied sub-basins are subject to one or more of these threats to their habitat. Eleven of the 15 occupied sub-basins are currently experiencing a high to very high level of impact, primarily due to hydrological changes/manipulations, vegetation encroachment, and reed canarygrass invasions. These impacts are ongoing, are expected to continue into the future, and affect habitat that supports all life stages of the Oregon spotted frog.

The benefits of the conservation actions to Oregon spotted frogs are site-specific, but are not sufficient to ameliorate the habitat threats at a sub-basin scale. Wetland restoration efforts have been implemented, but rarely are these specifically designed for Oregon spotted frogs, and may inadvertently reduce habitat quality for this emergent wetland-dependent species. Further, post-restoration monitoring has not been accomplished to evaluate whether these efforts are benefiting Oregon spotted frogs. Therefore, based on the best information available, the threats to Oregon spotted frog from habitat destruction, modification, or curtailment are occurring throughout the entire range of the species, and are expected to continue into the future.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization for commercial, recreational, scientific, or educational purposes has been documented for a wide range of amphibians. During the egg-laying period, Oregon spotted frogs occur in relatively easy-to-access locations that could make them easy to collect. However, we are not aware of collection of Oregon spotted frogs for commercial, recreational, or educational purposes.

Oregon spotted frog populations may be negatively impacted by scientific studies. In all Washington breeding locations and some of the breeding locations in British Columbia and Oregon, surveys are conducted annually during the egg-laying period. While these surveys are conducted in a manner to avoid trampling of frogs and egg masses (protocol example Pearl *et al.* 2010), such impacts may still occur. The extent to which any population is impacted by these surveys is unknown, but expected to be low. Eggs were collected each year beginning in 2002 from at least two of the extant locations in British Columbia for a headstart rearing program, which released metamorphic Oregon spotted frogs back into those sites (COSFRT 2012, pp. 30–31). This effort has ceased because it was deemed unsuccessful at bolstering the extant populations; however, captive husbandry for potential release into new locations continues.

The WDFW has collected 7,870 eggs (through 2011) from various breeding locations on the Black River and Conboy Lake NWRs for their captive-rearing program (Tirhi and Schmidt 2011, pp. 51–55). During this period, the population has continued to decline at Conboy Lake, but the source of the decline is unclear and cannot specifically be attributed to the egg collection. The USGS and Colorado State University have been collecting eggs in the Deschutes and Klamath Basins for genetic studies since 2007, resulting in the collection of at least 3,000 eggs (Robertson and Funk 2012 pp. 8–11; Pearl 2012, pers. comm.). However, we have no evidence to indicate that Oregon spotted frogs are being overutilized for commercial,

recreational, scientific, or educational purposes such that this activity currently poses a threat to the species or is likely to in the future.

Factor C. Disease or Predation

Disease

Amphibians are affected by a variety of diseases, and some diseases are known to negatively affect declining amphibian species. Diseases that are currently known to occur in Oregon spotted frogs and have the potential to affect populations are briefly discussed below. The specific effects of disease and parasitism on Oregon spotted frogs are not well documented.

Red-Leg Syndrome—Red-leg syndrome has been identified in several declining amphibian species but is not known to be a significant problem for the Oregon spotted frog (Blaustein 1999, pers. comm.). Red-leg syndrome refers to a common condition in which there is a reddening of the lower body, usually the legs and sometimes the abdomen, due to a dilation of capillaries under the skin. This disease is presumed to be widespread, having been reported for >100 years in many different species of frogs and salamanders in captivity and in the wild (Densmore and Green 2007, p. 236).

Chytrid Fungus—Bd has been implicated in the decline and extinction of numerous amphibian species in multiple locations around the world (Speare and Berger 2004). In the United States, 7 families including 18 amphibian species have been diagnosed as infected with *Bd* (Speare and Berger 2004). *Bd* infection has been documented in at least seven ranid frog species from the PNW, including Oregon spotted frogs (Adams *et al.* 2010, p. 295; Pearl *et al.* 2009b, p. 212; Hayes *et al.* 2009, p. 149). Chytridiomycosis is a cutaneous infection that ''results in a severe diffuse dermatitis characterized by epidermal hyperplasia, hyperkeratosis, and variable degrees of cutaneous ulceration and hyperemia'' (Bradley *et al.* 2002, p. 206). Clinical signs can include lethargy, abnormal posture, loss of the righting reflex (ability to turn over), and death (Daszak *et al.* 1999, p. 737). The fungal organism, *Bd,* is likely transmitted by release of zoospores into the water that eventually contact a susceptible animal, penetrating the skin, and establishing an infection (Pessier *et al.* 1999, p. 198; Bradley *et al.* 2002, p. 206). Dermal infections by *Bd* are thought to cause mortality by interfering with skin functions, including maintaining fluid and electrolyte homeostasis (balance), respiration, and the skin's role as a barrier to toxic and infectious agents (Pessier *et al.* 1999, p. 198; Bradley *et al.* 2002, p. 206). Unlike most other vertebrates, amphibians drink water and absorb important salts (electrolytes) through the skin rather than the mouth. In diseased individuals, electrolyte transport across the epidermis was inhibited by >50 percent, resulting in cardiac arrest and death (Voyles *et al.* 2009, pp. 582, 585).

In 2007 and 2008, the USGS sampled Oregon spotted frogs at sites across Washington and Oregon; *Bd* was confirmed at all locations sampled (Pearl *et al.* 2009b, p. 212). Even though Pearl *et al.* (2009b, p. 216) detected *Bd* at 100 percent of the sites sampled, they did not observe morbidity or mortality that could be attributed to chytridiomycosis. In addition to confirmation at USGS-sampled sites, *Bd* has been confirmed in Oregon spotted frogs near Sunriver in central Oregon (Bowerman 2005, pers. comm.) and Conboy Lake NWR (Hayes *et al.* 2009, p. 149) in Washington. Pearl *et al.* (2007, p. 147) detected *Bd* more frequently in highly aquatic species, such as Oregon spotted frogs, than in species with more terrestrial adult stages and shorter larval periods, suggesting that Oregon spotted frogs may be experiencing elevated exposure and infection due to their highly aquatic life-history. In addition, modeling done by Pearl *et al.* (2009b, p. 213) indicates that juvenile Oregon spotted frogs that test positive for *Bd* infection are more likely to have a poorer body condition after overwintering than individuals that test negative for *Bd* infection.

Alone, *Bd* may not be a concern for some healthy amphibian populations; however, most of the Oregon spotted frog populations in Oregon and Washington are already exposed to several stressors, such as predation, competition from nonnative species, and water quality degradation, and the effects of *Bd* are likely to be exacerbated and potentially compounded by these interactions (for example, see Parris and Baud 2004, pp. 346–347; Parris and Cornelius 2004, pp. 3388–3390; Parris and Beaudoin 2004, p. 628). In addition, *Bd* has been found in nonnative species that co-occur with Oregon spotted frogs in central Oregon (Pearl *et al.* 2007, p. 147); in particular, bullfrogs may serve as a *Bd* host while experiencing limited negative effects from the pathogen (Daszak *et al.* 2004, p. 203).

Laboratory studies have shown that infecting Oregon spotted frogs with *Bd* inhibits growth without necessarily showing any direct clinical signs (Padgett-Flohr and Hayes 2011). Recently metamorphosed frogs exposed to one of two strains of *Bd* tested positive for the pathogen within 11 days after exposure; however, no frogs died or displayed clinical signs of disease and most (83 percent) tested negative for the pathogen within 90 days of exposure. However, infected frogs gained significantly less weight than control animals, suggesting the infection carried an energetic cost. The detection of *Bd* at all Oregon spotted frog sites sampled, combined with the lack of observed mortality (in the wild and laboratory testing), indicates Oregon spotted frogs may be able to persist with *Bd* infections (Pearl *et al.* 2009b, p. 216) but growth and presumed long-term survival (e.g., avoidance of predators) are inhibited. Consequently, in light of the numerous amphibian extinctions attributed to *Bd,* and in conjunction with the other stressors that impact Oregon spotted frogs, we conclude that *Bd* poses a risk to individual Oregon spotted frog populations, particularly those most susceptible to climate changes (see *Factor E* discussion), but additional studies are necessary to determine whether *Bd* is a threat rangewide to the Oregon spotted frog.

Other pathogens, such as iridoviruses (specifically *Ranavirus*), have been documented to cause mortality in North American amphibians (Dasak *et al.* 1999, pp. 741–743). While not yet documented in wild Oregon spotted frog populations, iridovirus outbreaks have been identified as a major source of mortality in British Columbia captive-rearing programs for Oregon spotted frogs (COSEWIC 2011, p. 35).

Saprolegnia—The oomycete water mold *Saprolegnia* has been suggested as one of the causes of amphibian declines in the PNW (Kiesecker and Blaustein 1997, p. 218). Genetic analysis confirmed oomycetes of multiple genera on amphibian eggs in the PNW, including Oregon spotted frogs (Petrisko *et al.* 2008, pp. 174–178). McAllister and Leonard (1997, p. 25) reported destruction of developing Oregon spotted frog egg masses by this fungus, but not to the extent observed in other amphibian eggs. The threat of *Saprolegnia* to Oregon spotted frog populations is unclear, but this fungus has been shown to destroy Oregon spotted frog egg masses and could pose a threat to individual Oregon spotted frog breeding areas in the future.

Ultraviolet-B Radiation—Impacts resulting from exposure to ultraviolet-B (UV–B) radiation appear to vary greatly between amphibian species. Ambient levels of UV–B radiation in the atmosphere have risen significantly over the past few decades due to decreases in stratospheric ozone, climate warming,

and lake acidification. Because amphibian eggs lack shells and adults and tadpoles have thin, delicate skin, they are extremely vulnerable to increased levels of UV–B radiation. However, the harmful effects of UV–B radiation on amphibians depend upon a number of variables (Blaustein *et al.* 2003, pp. 123–128). Studies summarized in Blaustein *et al.* (2003) indicate UV–B exposure can result in mortality, as well as a variety of sublethal effects, including behavior alteration, slow growth and development, and developmental and physiological malformations. The type and severity of effect varies by life stage exposed and dosage of UV–B. Experimental tests conducted by Blaustein *et al.* (1999, p. 1102) found the hatching success of Oregon spotted frogs was unaffected by UV–B, indicating their eggs may be UV-resistant. However, a meta-analysis of available published literature conducted by Bancroft *et al.* (2008) found that exposure to UV–B resulted in a 1.9-fold reduction in amphibian survival and that larvae (tadpoles) were more susceptible than embryos. In addition, Bancroft *et al.* (2008) determined that UV–B interacted synergistically with other environmental stressors, such as contaminants, resulting in greater than additive effects on survival. For example, Kiesecker and Blaustein (1997, pp. 217–218) found increased mortality associated with the fungus identified as *Saprolegnia ferax* in amphibian embryos exposed to UV–B; especially susceptible were amphibians that lay eggs in communal egg masses, like Oregon spotted frogs. At present, the extent of population-level impacts from UV–B exposure is unknown.

Malformations—The North American Reporting Center for Amphibian Malformations (NBII 2005) documents amphibian malformations throughout the United States. Malformations of several *Rana* species, including the Cascades frog (*Rana cascadae*), red-legged frog (*Rana aurora*), foothill yellow-legged frog (*Rana boylii*), and bullfrog, have been reported within the current and historical range of the Oregon spotted frog in Washington, Oregon, and California. We are aware of one report from Thurston County, Washington, of an Oregon spotted frog with an extra forelimb (NBII 2005) and reports of malformations from Deschutes (Johnson *et al.* 2002a, p. 157; Bowerman and Johnson 2003, pp. 142–144), Douglas, and Lane (NBII 2005) Counties in Oregon. Based on research on numerous amphibian species, including Oregon spotted frog, growing evidence suggests that the high frequencies of severe limb malformations may be caused by a parasitic infection (*Ribeiroia ondatrae*) in amphibian larvae (Johnson *et al.* 2002a, p. 162). Recent investigations also indicate small fish and certain libellulid and corduliid dragonfly larvae attack developing tadpoles and can cause high incidences of missing-limb deformities, including complete amputation (Ballengee and Sessions 2009; Bowerman *et al.* 2010). At present, the extent of population-level impacts from malformations among Oregon spotted frogs is unknown.

Parasitic infection—Aquatic snails (*Planorbella* spp.) are the exclusive intermediate host for the trematode *Ribeiroia ondatrae* (Johnson and Chase 2004, p. 523) and are found in a diversity of habitats, including ephemeral ponds, montane lakes, stock ponds, oxbows, drainage canals, and reservoirs (Johnson *et al.* 2002a, p. 164). Trematodes are parasitic flatworms that have a thick outer cuticle and one or more suckers or hooks for attaching to host tissue. Johnson *et al.* (2002a, p. 165) postulate that the dramatic and widespread alterations of aquatic ecosystems, particularly the construction of small impoundments or farm ponds, may have created environments that facilitate high densities of *Planorbella* snails and the resulting infections from *R. ondatrae.* Many of the sites with high frequencies of malformations were impacted heavily by cattle and supported dense *Planorbella* snail populations. Malformations in multiple amphibian species were found in Washington ponds that had a history of grazing that extended back at least 50 years (Johnson *et al.* 2002a, p. 165).

Johnson *et al.* (2002a, p. 166) found the frequency of malformations in larval amphibians was significantly higher than in transformed amphibians from the same system, suggesting that malformed larvae experience greater mortality prior to and during metamorphosis. However, sensitivity to and severity (mortality versus no malformation) of infection varies by amphibian species (Johnson and Hartson 2009, p. 195) and tadpole stage exposed (Schotthoefer *et al.* 2003, p. 1148).

High levels of *R. ondatrae* infection and the resulting malformations may increase mortality in wild amphibian populations and may represent a threat to amphibian populations already in decline. Johnson *et al.* (2002a, p. 157) and Bowerman and Johnson (2003, pp. 142–144) have found deformities in Oregon spotted frogs caused by this parasite at the Sunriver Nature Center Pond, which had a high population of large planorbid snails. Three additional ponds within 6 mi (10 km) were also investigated, each of which supported planorbid snails, but at lower infestation levels. None of these ponds yielded malformed Oregon spotted frogs (Bowerman *et al.* 2003, pp. 142–143). Most of the malformations found in anuran frogs were around the hind limbs, where they are more likely to be debilitating (hinder mobility) and expose the frog to increased risk of predation (reduced escape/evade ability) (Johnson *et al.* 2002a, p. 162). In a study on wood frogs (*Rana sylvatica*), Michel and Burke (2011) reported malformed tadpoles were twice as vulnerable to predators because they could not escape or evade.

Human manipulation of upland areas adjacent to amphibian breeding areas and direct manipulation of the breeding areas can affect the prevalence of *Planorbella* snails and the infection rate of *R. ondatrae.* Complex habitats reduce transmission rates of larval trematodes because these habitats provide more refugia for tadpoles. Alternatively, simplified habitats, such as agricultural landscapes, have been shown to reduce parasite prevalence by limiting access of vertebrate hosts, particularly in birds (King *et al.* 2007, p. 2074). However, when simplified habitats are subject to water runoff associated with agricultural, cattle, or urban sources and eutrophication, the abundance of snails can increase, thereby increasing the prevalence of trematodes and parasitic risks to frogs (Johnson and Chase 2004, pp. 522–523; Johnson *et al.* 2007 p. 15782). While the effects of these parasite-induced malformations are clear at the individual scale, population-level effects remain largely uninvestigated. However, Biek *et al.* (2002, p. 731) found that the viabilities of pond-breeding amphibians were most vulnerable to reductions in juvenile or adult survival relative to other portions of the life cycles. Therefore, it is reasonable to infer that where *Planorbella* snails coincide with Oregon spotted frogs, malformations will occur resulting in mortality of juvenile frogs and a reduction in the viability of the Oregon spotted frog population at that location. At present, it is not known where these co-occurrences take place, or how extensive infections levels may be, but 11 of the occupied sub-basins have agricultural, cattle, or urban sources that produce runoff that can increase the snail populations and negative effects have been demonstrated

at the Sunriver Nature Center Pond population.

Predation

Predation is a process of major importance in influencing the distribution, abundance, and diversity of species in ecological communities. Generally, predation leads to changes in both the population size of the predator and that of the prey. In unfavorable environments, prey species are stressed or living at low population densities such that predation is likely to have negative effects on all prey species, thus lowering species richness. In addition, when a nonnative predator is introduced to the ecosystem, negative effects on the prey population may be higher than those from co-evolved native predators. The effects of predation may be magnified when populations are small, and the disproportionate effect of predation on declining populations has been shown to drive rare species even further toward extinction (Woodworth 1999, pp. 74–75).

Introduced fish species within the historical range of the Oregon spotted frog may have contributed to losses of populations. Oregon spotted frogs, which are palatable to fish, did not evolve with these introduced species and may not have the mechanisms to avoid the predatory fish that prey on the tadpoles. The microhabitat requirement of the Oregon spotted frog, unique among native ranids of the PNW, exposes it to a number of introduced fish species (Hayes 1994, p. 25), such as smallmouth bass (*Micropterus dolomieu*), largemouth bass (*Micropterus salmoides*), pumpkinseed (*Lepomis gibbosus*), yellow perch (*Perca flavescens*), bluegill (*Lepomis macrochirus*), brown bullhead (*Ameriurus nebulosus*), black crappie (*Pomoxis nigromaculatus*), warmouth (*Lepomis gulosus*), brook trout (*Salvelinus fontinalis*), rainbow trout (*Oncorhynchus mykiss*), fathead minnow (*Pimephales promelas*) (Hayes and Jennings 1986, pp. 494–496; Hayes 1997, pp. 42–43; Hayes *et al.* 1997; McAllister and Leonard 1997, p. 14; Engler 1999, pers. comm.), and mosquitofish (*Gambusia affinis*) (Wydoski and Whitney 2003, p. 163; Johnson 2008, p. 5).

Surveys from 1993 to 1997 in British Columbia, Washington, and Oregon documented at least one introduced predator in 20 of 24 sites (Hayes *et al.* 1997, p. 5). Brook trout was the most frequently recorded introduced predator, which was recorded at 18 of 24 sites. Although differences in temperature requirements between the two species may limit their interactions, brook trout apparently occur with the Oregon spotted frog at cold-water springs, where the latter species probably overwinters and where cooler water is favorable to brook trout (Hayes *et al.* 1997, p. 5). During drought years, dropping water levels result in overlap in habitat use between these two species. As wetland refuges are reduced, Oregon spotted frogs become concentrated and the larval stages are exposed to brook trout predation (Hayes *et al.* 1997, p. 5; Hayes 1998a, p. 15), resulting in lower Oregon spotted frog recruitment (Pearl 1999, p. 18). In addition to effects in breeding habitat, Pearl *et al.* (2009a, p. 143) found substantial evidence for a negative effect on overwintering Oregon spotted frogs from nonnative fish with access to spring and channel habitats. In these latter situations, predation is believed to be more pronounced in spatially constrained overwintering habitats where frogs and fish may both seek flowing water with dissolved oxygen. Their findings suggest that these negative effects are mediated by habitat complexity and the seasonal use of microhabitats, and Oregon spotted frogs can benefit from fish-free overwintering sites, even if fish are present in other local habitats.

Demographic data indicate that sites with significant numbers of brook trout and/or fathead minnow have a skewed ratio of older spotted frogs to juvenile frogs, suggesting poor reproductive success or juvenile recruitment (Hayes 1997, pp. 42–43, 1998a). While experimental data are sparse, field surveys involving other western amphibians (e.g., Adams 1999, p. 1168; Monello and Wright 1999, pp. 299–300; Bull and Marx 2002, pp. 245–247; Vredenberg 2004; Knapp 2005, pp. 275–276; Pearl *et al.* 2005b, pp. 82–83; Rowe and Garcia 2014, pp. 146–147) and other closely related frog species strongly suggest that introduced fish represent a threat to Oregon spotted frogs that has significant impacts (Pearl 1999, pp. 17–18). A study of the impacts of introduced trout on Columbia spotted frog populations in Idaho revealed that, although fish and adult frogs coexisted at many of the stocked lakes, most stocked lakes contained significantly lower densities of all amphibian life stages (Pilliod and Peterson 2001, p. 326). On the other hand, results from the Willamette Valley in Oregon suggest that nonnative, warm water fishes actually benefit introduced populations of bullfrogs because of fish predation on macroinvertebrates that would otherwise prey on bullfrog larvae (Adams *et al.* 2003, p. 347).

The presence of these nonnative species has been shown to increase the time for metamorphosis and decrease the mass of native red-legged frogs (Kiesecker and Blaustein 1997; Lawler *et al.* 1999, p. 617). A recent study documented nonnative fish negatively influencing the survival and growth of Pacific tree frogs while bullfrog larvae reduced the growth but had no effect on survival (Preston *et al.* 2012, p. 1257). In addition, the predation effects of nonnative fish and bullfrogs on Pacific tree frogs were additive, but those species had little impact on each other (Preston *et al.* 2012, p. 1259). Many of the sub-basins occupied by Oregon spotted frogs also have introduced warm- and/or cold-water fish, and 5 of the 15 sub-basins are subject to high to very high impacts due to predation of larvae and reduced winter survival.

The ODFW stocks fish in most of the Cascades Lakes and two reservoirs in the Upper Deschutes River sub-basin occupied by Oregon spotted frogs (Hodgson 2012, pers. comm.). In addition to stocking, there is natural production of various fish species, both native and introduced, in the lakes and reservoirs in the Upper Deschutes River sub-basin and in lakes in the McKenzie River and Middle Fork Willamette sub-basins where spotted frogs occur (Hodgson 2012, pers. comm.; Ziller 2013, pers. comm.; USFS 2011a). The ODFW no longer stocks fish in any of the moving waters associated with Oregon spotted frog locations within the Klamath Basin (Tinniswood 2012, pers. comm.).

Bullfrogs introduced from eastern North America into the historical range of the Oregon spotted frog may have contributed to losses of populations. The introduction of bullfrogs may have played a role in the disappearance of Oregon spotted frogs from the Willamette Valley in Oregon and the Puget Sound area in Washington (Nussbaum *et al.* 1983, p. 187). Bullfrogs share similar habitat and temperature requirements with the Oregon spotted frog, and the overlap in time and space between the two species is believed to be extensive (Hayes 1994, p. 25; Hayes *et al.* 1997, p. 5). Bullfrogs can reach high densities due to the production of large numbers of eggs per breeding female and unpalatability (and high survivorship) of tadpoles to predatory fish (Kruse and Francis 1977, pp. 250–251). Bullfrog tadpoles outcompete or displace tadpoles of native frog species from their habitat or optimal conditions (Kupferberg 1997, pp. 1741–1746; Kiesecker and Blaustein 1998, pp. 783–

784; Kiesecker *et al.* 2001b, pp. 1966–1967).

Bullfrog adults achieve larger size than native western ranids and even juvenile bullfrogs can consume native frogs (Hayes and Jennings 1986, p. 492; Pearl *et al.* 2004, p. 16). The digestive tracts of a sample of 25 adult bullfrogs from Conboy Lake in Washington contained nine Oregon spotted frogs, including seven adults (McAllister and Leonard 1997, p. 13). A later examination of the stomachs of two large bullfrogs revealed two adult or subadult Oregon spotted frogs in one stomach and four in the second (Hayes 1999, pers. comm.). Bullfrogs were recorded consuming hatchling Oregon spotted frogs at British Columbia's Maintenance Detachment Aldergrove site (Haycock and Woods 2001, unpubl. data cited in COSFRT 2012, p. 19). In addition, the USGS has observed Oregon spotted frogs within dissected bullfrogs at multiple sites throughout the Deschutes and Klamath Basins (Pearl 2012, pers comm.).

Oregon spotted frogs are more susceptible to predation by bullfrogs than are northern red-legged frogs (Pearl *et al.* 2004, p. 16). Oregon spotted frogs and northern red-legged frogs historically coexisted in areas of the PNW that are now invaded by bullfrogs. However, the Oregon spotted frog has declined more severely than the northern red-legged frog. Pearl *et al.* (2004, p. 16) demonstrated in laboratory experiments that the more aquatic Oregon spotted frog juveniles are consumed by bullfrogs at a higher rate than are northern red-legged frog juveniles. Oregon spotted frogs and northern red-legged frogs also differ in their ability to escape bullfrogs, with Oregon spotted frogs having shorter mean and maximum jump distances than northern red-legged frogs of equal size. Bullfrogs, therefore, pose a greater threat to Oregon spotted frogs than to red-legged frogs. Oregon spotted frog's microhabitat use and escape abilities may be limiting their distributions in historical lowland habitats where bullfrogs are present, whereas red-legged frog populations are more stable (Pearl *et al.* 2004, pp. 17–18).

The ability of bullfrogs and Oregon spotted frogs to coexist may be related to differences in seasonal and permanent wetland use. However, a substantial bullfrog population has likely coexisted with Oregon spotted frogs for nearly 50 years in Conboy Lake in Washington (Rombough *et al.* 2006, p. 210). This long-term overlap has been hypothesized to be the evolutionary driver for larger body size of Oregon spotted frogs at Conboy Lake (Rombough *et al.* 2006, p. 210). However, body size measurements have not been completed across the range for a complete comparison to be made. Winterkill could be a factor in controlling the bullfrog population at Conboy Lake and, hence, facilitating co-existence with Oregon spotted frogs (Engler and Hayes 1998, p. 2); however, the Oregon spotted frog population at Conboy Lake has declined over the last decade, some of which is likely due to bullfrog predation. Bullfrogs have been actively managed in the Sunriver area in Oregon for more than 40 years, and despite efforts to eradicate them, they have been expanding in distribution (Bowerman 2012, pers. comm.). Bullfrogs have been documented up to 4,300 feet (1,311 m) elevation in the Little Deschutes River sub-basin in habitat occupied by Oregon spotted frog. Bullfrogs have been found in 10 of the 15 sub-basins occupied by Oregon spotted frogs, but are relatively rare at most of the locations where they co-occur. However, based on our threats analysis, the impacts due to predation and/or competition with bullfrogs within the Lower Fraser River, Middle Klickitat sub-basins in Washington, and the Upper Klamath Lake sub-basin in Oregon are considered to be high to very high because of the more extensive overlap between these two species in these areas.

Green frogs (*Lithobates clamitans*) are native to the eastern United States but have been introduced to the western United States and Canada. This introduced species occurs at a few lakes in Whatcom County, Washington (McAllister 1995; WDFW WSDM database), but Oregon spotted frogs are not known to occur in these lakes. Green frogs do co-occur with Oregon spotted frogs at Maria and Mountain Sloughs in British Columbia (COSEWIC 2011, p. 36). Adult green frogs may eat young Oregon spotted frogs, but adult Oregon spotted frogs may reach a size that is too large to be prey for the species. Whether green frogs are significant competitors of Oregon spotted frogs is currently unknown. High population densities of green frogs possibly attract and maintain higher than normal population densities of native predators, which in turn increases predation pressure on Oregon spotted frogs (COSFRT 2012, p. 19).

Conservation Efforts To Reduce Disease or Predation

Despite considerable knowledge about the habitat and management requirements for Oregon spotted frog, refuge management at the Conboy Lake NWR remains complex as habitat needs and the abatement of other stressors often conflict with the conventional intensive wetland management that occurs on the refuge (USFWS, 2010b, p. 64). The historical Conboy Lake basin in Washington likely retained water for 10 to 12 months in most years. Currently, it retains water only during wet years and is drained annually by the Conboy Lake NWR to control bullfrogs for the benefit of Oregon spotted frogs. However, the draining of the lakebed forces all surviving bullfrogs, fish, and Oregon spotted frogs into the canal system for the fall and winter, increasing potential predation on Oregon spotted frogs.

In the Upper and Little Deschutes River sub-basins in Oregon, there has been little effort to control invasive predators. Bullfrog eradication has been attempted at two sites within the Upper and Little Deschutes sub-basins: Sunriver and Crosswater, respectively. However, it appears that bullfrogs may be increasing in the Sunriver area (Bowerman 2012, pers. comm.).

Current predator or disease conservation efforts in the Klamath Basin in Oregon are limited to bullfrog control or eradication. The USGS has conducted a bullfrog eradication program on Crane Creek since bullfrogs appeared in 2010. In addition, the BLM has been controlling and reducing bullfrogs and analyzing the gut contents of bullfrogs at all life stages on their Wood River property in Oregon for 6 years. Bullfrog detections and collection have decreased in different areas of the canal in recent years (Roninger 2012, pers. comm.). The number of bullfrogs removed and seen at this site has decreased, and in the last few years, the bulk of the bullfrog removal has been from the north canal and Seven-mile canal areas (outside the Oregon spotted frog site), which is considered to be the strongest source areas for movement into the Oregon spotted frog site (Roninger 2012, pers. comm). However, despite these efforts, bullfrogs continue to persist in these Oregon spotted frog habitats.

Summary of disease and predation—Saprolegnia, Bd, and *Ribeiroia ondatrae* have been found in Oregon spotted frogs and compounded with other stressors, such as UV–B exposure, degradation of habitat quality, or increased predation pressure, may contribute to population declines. *Bd* and *R. ondatrae,* in particular, infect post-metamorphic frogs and reductions in these life stages are more likely to lead to population declines in pond-breeding amphibians; however, these are not currently known to be causing population declines in Oregon spotted frogs. Disease continues

to be a concern, but more information is needed to determine the severity of impact that diseases may have on Oregon spotted frogs. Therefore, based on the best available scientific evidence, there is no indication that disease is a threat to the Oregon spotted frog.

Introduced fish species prey on tadpoles, negatively affect overwintering habitat, and can significantly threaten Oregon spotted frog populations, especially during droughts, as aquatic habitat areas become smaller and escape cover is reduced. Cushman *et al.* 2007 (p. 22) states that both Hayes (1997) and Pearl (1999) hypothesized that low water conditions have the potential to increase overlap between Oregon spotted frog and nonnative predators such as brook trout and bullfrogs. Increased overlap in habitat use between Oregon spotted frog and nonnative predators is likely to result in greater loss to predation. Bullfrogs (and likely green frogs) prey on juvenile and adult Oregon spotted frogs and bullfrog larvae can outcompete or displace Oregon spotted frog larvae, effectively reducing all Oregon spotted frog life stages and posing a significant threat to Oregon spotted frogs. At least one nonnative predaceous species occurs within each of the sub-basins currently occupied by Oregon spotted frogs, and most sub-basins have multiple predators. Nine of the 15 occupied sub-basins are currently experiencing moderate to very high impacts due to predation, and threats from predators are more concentrated in summer/rearing and overwintering habitat. While some predator control occurs in a few sub-basins, this work is not sufficient to ameliorate the threat from predators.

Therefore, based on our review of the best information available, we conclude that predation is a threat to Oregon spotted frogs throughout the entire range of the species and is expected to continue into the future.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we examine whether existing regulatory mechanisms are inadequate to address the threats to the species discussed under the other factors. Section 4(b)(1)(A) of the Act requires the Service to take into account ''those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such specie. . . .'' In relation to Factor D under the Act, we interpret this language to require the Service to consider relevant Federal, State, and tribal laws, regulations, and other such mechanisms that may minimize any of the threats we describe in threat analyses under the other four factors, or otherwise enhance conservation of the species. We give strongest weight to statutes and their implementing regulations and to management direction that stems from those laws and regulations. An example would be State governmental actions enforced under a State statute or constitution, or Federal action under statute.

Having evaluated the significance of the threat as mitigated by any such conservation efforts, we analyze under Factor D the extent to which existing regulatory mechanisms are inadequate to address the specific threats to the species. Regulatory mechanisms, if they exist, may reduce or eliminate the impacts from one or more identified threats. In this section, we review existing State and Federal regulatory mechanisms to determine whether they effectively reduce or remove threats to the Oregon spotted frog.

Canadian Laws and Regulations

In Canada, few regulatory mechanisms protect or conserve Oregon spotted frogs. In British Columbia, Oregon spotted frogs are on the Conservation Data Centre's Red List. The Red List includes ecological communities, indigenous species and subspecies that are extirpated, endangered, or threatened in British Columbia; placing taxa on the Red List flags them as being at risk and requiring investigation, but does not confer any protection (British Columbia Ministry of Environment 2012, p. 1).

The Oregon spotted frog was determined to be endangered by the Committee on the Status of Endangered Wildlife in Canada in 1999, with status reexamined and confirmed in 2000 and 2011, and it received an endangered determination under the Canadian Species at Risk Act (SARA) in 2003 (COSFRT 2012, p. 1). SARA makes it an offense to kill, harm, harass, capture or take an individual of a listed species that is extirpated, endangered or threatened; or to possess, collect, buy, sell or trade an individual of a listed species that is extirpated, endangered or threatened, or any part or derivative of such an individual (S.C. ch. 29 section 32); or damage or destroy the residence of one or more individuals of a listed endangered or threatened species or of a listed extirpated species if a recovery strategy has recommended its reintroduction (S.C. ch, 29 sections 33, 58). For species other than birds, the prohibitions on harm to individuals and destruction of residences are limited to Federal lands. Three of the four breeding locations in Canada occur wholly or partially on private lands, which are not subject to SARA prohibitions (COSEWIC 2011, p. 38).

Habitat protection in British Columbia is limited to the Federal Fisheries Act, British Columbia Water Act, and the provincial Riparian Areas Regulation (COSEWIC 2011, p. 38). The Federal Fisheries Act limits activities that can cause harmful alteration, disruption, or destruction of fish habitat, with the primary goal being no net loss of fish habitat. The British Columbia Water Act is the principal law for managing the diversion and use of provincial water resources. License holders are entitled to divert and use water; store water; construct, maintain, and operate anything capable of or used for the proper diversion, storage, carriage, distribution, and use of the water or the power produced from it; alter or improve a stream or channel for any purpose; and construct fences, screens, and fish or game guards across streams for the purpose of conserving fish and wildlife (British Columbia Water Act Part 2, section 5). The Riparian Areas Regulation was enacted under Section 12 of the Fish Protection Act and calls on local governments to protect riparian fish habitat during residential, commercial, and industrial development. The habitat protections under these Canadian Acts are designed to benefit fish species. As discussed under *Factor A,* riparian protection and restoration actions designed specifically to benefit fish can be detrimental to Oregon spotted frogs and their habitat.

U.S. Federal Laws and Regulations

No Federal laws specifically protect the Oregon spotted frog. Section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) is the primary Federal law that is relevant to the Oregon spotted frog's aquatic habitat. Through a permit process under section 404, the U.S. Army Corps of Engineers (Corps) regulates the discharge of dredged or fill material into waters of the United States, including navigable waters and wetlands that may contain Oregon spotted frogs. However, many actions highly detrimental to Oregon spotted frogs and their habitats, such as irrigation diversion structure construction and maintenance and other activities associated with ongoing farming operations in existing cropped wetlands, are exempt from Clean Water Act requirements.

In Washington and Oregon, current section 404 regulations provide for the issuance of nationwide permits for at least 15 of the 52 categories of activities identified under the nationwide permit program (USACOE 2012a, pp. 1–46),

which, for example, could result in the permanent loss of up to 500 ft (150 m) of streambank and 1 ac (0.4 ha) of wetlands (USACOE 2012a, 2012b, 2012c). Projects authorized under a nationwide permit receive minimal public and agency review, and in many cases, agency notification is not required. Individual permits are subject to a more rigorous review, and may be required for nationwide permit activities with more than minimal impacts. Under both the individual and nationwide permit programs, no activities can be authorized if they are likely to directly or indirectly (1) jeopardize the continued existence of a threatened or endangered species, or a species proposed for designation, or (2) destroy or adversely modify the critical habitat of such species, unless section 7 consultation addressing the effects of the proposed activity has been completed. During section 7 consultation, effects to the species itself and aquatic habitat/wetlands would be considered.

For nationwide permits, Corps notification may not be required depending upon the project type and the amount of wetland to be impacted. Impacts to wetlands may be authorized with no compensatory mitigation in some cases. In other cases, wetland impacts may be authorized if the permittee demonstrates the project footprint has been designed to avoid most wetland impacts and unavoidable impacts can be adequately mitigated through wetland creation, restoration, or enhancement. For example, nationwide permits authorize the discharge of fill material into 0.25 ac (0.1 ha) of wetlands with no requirement for compensatory mitigation. In situations where compensatory wetland mitigation is required, in kind mitigation is preferred but not required.

A Washington State wetland mitigation evaluation study (Johnson *et al.* 2002b, entire) found a resulting net loss of wetlands with or without compensatory mitigation, because wetland creation and enhancement projects were minimally successful or not successful in implementation, nor did they achieve their ecologically relevant measures. In general, most riparian habitat restoration in Washington is targeted toward salmon species and does not include floodplain depression wetlands. In Washington, mitigation sites within the South Fork Nooksack, Samish, and Black River sub-basins have been designed to improve water quality by planting trees and shrubs. Some of these activities have been conducted in Oregon spotted frog breeding habitat. Therefore, an activity that fills Oregon spotted frog habitat could be mitigated by restoring and or creating riparian habitat suitable for fish, but which is not suitable for frogs.

State Laws and Regulations

Washington—Although there is no State Endangered Species Act in Washington, the Washington Fish and Wildlife Commission has the authority to list species (RCW 77.12.020). State-listed species are protected from direct take, but their habitat is not protected (RCW 77.15.120). The Oregon spotted frog was listed as a State endangered species in Washington in August 1997 (Watson *et al.* 1998, p. 1; 2003, p. 292; WAC 232–12–014). State listings generally consider only the status of the species within the State's borders, and do not depend upon the same considerations as a potential Federal listing. Unoccupied or unsurveyed habitat is not protected unless by County ordinances or other similar rules or laws.

Oregon spotted frogs are a Priority Species under WDFW's Priority Habitats and Species Program (WDFW 2008, pp. 68). As a Priority Species, the Oregon spotted frog may receive some protection of its habitat under environmental reviews of applications for county or municipal development permits and through implementation of priority habitats and species management recommendations. Priority habitat and species management recommendations for this species include maintaining stable water levels and natural flow rates; maintaining vegetation along stream banks or pond edges; avoidance of introducing nonnative amphibians, reptiles, or fish; avoidance of removing algae from rearing areas; avoiding alteration of muddy substrates; controlling stormwater runoff away from frog habitat; avoiding application of pesticides in or adjacent to waterbodies used by Oregon spotted frogs; and surveying within the historical range of the species (Nordstrom and Milner 1997, pp. 6–5—6–6).

The Clean Water Act requires States to set water quality standards to protect beneficial uses, identify sources of pollution in waters that fail to meet State water quality standards (Section 303(d)), and to develop water quality plans to address those pollutants. Although the Clean Water Act is a Federal law, authority for implementing this law has been delegated to the State. Washington State adopted revised water quality standards for temperature and intergravel dissolved oxygen in December 2006, and the Environmental Protection Agency (EPA) approved these revised standards in February 2008 (EPA 2008). Although candidate species were not the focus, proponents believed that the proposed standards would likely protect native aquatic species. The temperature standards are intended to restore thermal regimes to protect sensitive native salmonids, and, if temperature is not a limiting factor in sustaining viable salmonid populations, other native species would likely be protected (EPA 2007, p. 14).

The State has developed water quality plans for the Lower Nooksack, Samish, and Upper Chehalis Rivers; however, as of 2008 (most recent freshwater listing), portions of the Sumas River; Black Slough in the South Fork Nooksack River sub-basin; portions of the Samish River; segments of the Black River; segments of Dempsey, Allen, and Beaver Creeks in the Black River drainage; and a segment in the upper portion of Trout Lake Creek were listed by the Washington Department of Ecology (WDOE) as not meeting water quality standards for a variety of parameters, including temperature, fecal coliform, pH, and dissolved oxygen (see *Factor E* discussion). In addition, for the streams/rivers where the temperature or fecal coliform standard is exceeded, the water quality plans call for planting trees and shrubs and excluding cattle, which would not be conducive to the creation and maintenance of emergent vegetation stage conditions necessary for Oregon spotted frog egg-laying habitat (see *Factor A* discussion).

Oregon—Oregon has a State Endangered Species Act, but the Oregon spotted frog is not State listed. Although this species is on the Oregon sensitive species list and is considered critically sensitive, this designation provides little protection (ODFW 1996, OAR 635–100–0040). A Federal listing does not guarantee a listing under the Oregon State Endangered Species Act; rather a State listing requires a separate rulemaking process and findings made by the Oregon Fish and Wildlife Commission (OAR 635–100–0105 and 635–100–0110).

Although the Clean Water Act is a Federal law, authority for implementing this law has been delegated to the State. Oregon adopted revised water quality standards for temperature, intergravel dissolved oxygen, and anti-degradation in December 2003, and EPA approved these revised standards in March 2004 (EPA 2004). Although candidate species were not the focus, it was believed that the proposed standards would likely protect native aquatic species. The proposed temperature standards are intended to restore thermal regimes to protect sensitive native salmonids and,

if temperature is not a limiting factor in sustaining viable salmonid populations, other native species would likely be protected (EPA 2004). In December 2012, EPA approved additions to Oregon's 303(d) list, which includes waterbodies that do not meet water quality standards for multiple parameters (ODEQ 2012). Many of the streams associated with Oregon spotted frog habitat are 303(d) listed by the Oregon Department of Environmental Quality (see Factor E).

Oregon's Removal-Fill Law (ORS 196.795–990) requires people who plan to remove or fill material in waters of the State to obtain a permit from the Department of State Lands. Wetlands and waterways in Oregon are protected by both State and Federal laws. Projects impacting waters often require both a State removal-fill permit, issued by the Department of State Lands (DSL), and a Federal permit issued by the Corps. A permit is required only if 50 cubic yards (cy) or more of fill or removal will occur. The removal fill law does not regulate the draining of wetlands (see ''Local Laws and Regulations,'' below).

Local Laws and Regulations

Washington—The Washington Shoreline Management Act's purpose is ''to prevent the inherent harm in an uncoordinated and piecemeal development of the State's shorelines.'' Shorelines are defined as: All marine waters; streams and rivers with greater than 20 cfs (0.6 cms) mean annual flow; lakes 20 ac or larger; upland areas called shorelands that extend 200 ft (61 m) landward from the edge of these waters; and the following areas when they are associated with one of the previous shorelines: Biological wetlands and river deltas, and some or all of the 100-year floodplain, including all wetlands within the 100-year floodplain. Each city and county with ''shorelines of the state'' must prepare and adopt a Shoreline Master Program (SMP) that is based on State laws and rules but is tailored to the specific geographic, economic, and environmental needs of the community. The local SMP is essentially a shoreline-specific combined comprehensive plan, zoning ordinance, and development permit system.

The Washington State Growth Management Act of 1990 requires all jurisdictions in the State to designate and protect critical areas. The State defines five broad categories of critical areas, including (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. The County Area Ordinance (CAO) is the county regulation that most directly addresses protection of the critical areas mapped by each county.

Frequently, local government will have adopted zoning regulations and comprehensive land use plans that apply both within and outside shoreline areas. When these codes are applied within the shoreline area, there may be differences in the zoning regulations and the plan policies as compared with the regulations and policies of the SMP. Because the SMP is technically a State law (i.e., WAC), the requirements of the SMP will prevail in the event of a conflict with the local zoning or plan. Generally, however, a conflict will not exist if the zoning or plan requirements are more protective of the shoreline environment than the SMP. For example, if the zoning district allows a density of one unit per acre, and the SMP allows a density of two units per, the requirements of the more restrictive code would prevail.

Within each county in Washington, the SMP and CAO are the regulations that most directly address protection of Oregon spotted frog habitat. A brief discussion of the current SMPs and CAOs for the five counties where Oregon spotted frogs are known to occur follows.

Whatcom County: Whatcom County updated its Shoreline Management Program (known as a Shoreline Master Program in the Growth Management Act) in 2008 (Whatcom County Shoreline Management Program 2008). Based on interpretation of the 2008 Shoreline Management Program, the known Oregon spotted frog occupied locations in the Lower Chilliwack or South Fork Nooksack River sub-basins are not ''shorelines.'' Samish River within Whatcom County is designated as Conservancy Shoreline that provides specific allowed uses and setbacks. Presently, the two primary uses of this area are agricultural and residential, both of which are allowed under the Shoreline Management Program, with some restrictions. Restrictions include shoreline setbacks of 15–20 ft (4.5–6.1 m) and allowance of no more than 10 percent impervious surface (although it is uncertain whether this is applicable on a per-project, per-acre, or per-basin basis). One of the allowed uses is restoration, which is focused on recovery of salmon and bull trout. Many of the restoration actions targeting salmon and bull trout recovery are not conducive to maintaining emergent wetland vegetation stages necessary to maintain Oregon spotted frog egg-laying habitat. Some activities would require a permit that must be reviewed and approved by Whatcom County and the WDOE for consistency.

The Whatcom County CAO that is the most relevant to Oregon spotted frogs applies to wetland areas, which are present in the three sub-basins where Oregon spotted frogs occur in this county. Activities in all wetlands are regulated unless the wetland is 1/10 ac or smaller in size; however, activities that can destroy or modify Oregon spotted frog habitat can still occur under the existing CAO. Activities that are conditionally allowed include surface water discharge; storm water management facilities; storm water conveyance or discharge facilities; public roads, bridges, and trails; single-family developments; and onsite sewage disposal systems. Buffers and mitigation are required, but can be adjusted by the county. In general, wetlands and the associated wetland buffer CAOs target an avoidance strategy, which may not be beneficial to the maintenance of Oregon spotted frog emergent wetland habitat on a long-term basis in areas where reed canarygrass is present. Within the areas occupied by Oregon spotted frogs in the three sub-basins, all breeding habitat is within seasonally flooded areas, which may or may not be defined as wetlands. Rather than an avoidance strategy, these areas may require management actions to remove reed canarygrass in order to maintain breeding habitat and provide for Oregon spotted frog persistence. Within Whatcom County, protective measures for Oregon spotted frogs are afforded under both the SMP and the CAOs, although no measures are specifically directed toward this species.

Skagit County: Skagit County's revisions to its SMP are under review (*http://www.skagitcounty.net*). Until the revised SMP is approved by WDOE, the 1976 SMP remains in effect (Skagit County SMP 1976). The portion of the Samish River in Skagit County is designated as Rural Shoreline Area, and typified by low overall structural density, and low to moderate intensity of agriculture, residential development, outdoor recreation, and forestry operations uses. This designation is intended to maintain open spaces and opportunities for recreational activities and a variety of uses compatible with agriculture and the shoreline environment. Presently, the two primary uses of the Samish River where Oregon spotted frogs occur are agricultural and residential. With some restrictions, almost all activities are allowed within this designation, and the draining of wetlands is not prohibited. Agricultural users are encouraged to retain

vegetation along stream banks. Developments and sand and gravel extractions are allowed provided they are compatible with agricultural uses. These types of activities can be detrimental to Oregon spotted frog breeding habitat.

The Skagit County CAO designates lands adjacent to the Samish River where Oregon spotted frogs are known to occur as Rural Resource or Agricultural. These land designations and the associated allowed activities are intended to provide some protection of hydrological functions, but they are primarily designed to retain a rural setting (low residential density) or to ensure the stability and productivity of agriculture and forestry in the county, which has some benefits to the Oregon spotted frog.

Thurston County: Thurston County's revision of its SMP is currently under way, and until the revised SMP is completed and approved, the 1990 SMP remains in effect (Thurston County SMP 1990). The majority of the areas within the Black River that are known to be occupied by Oregon spotted frogs are either undesignated (primarily the tributaries) or designated as Natural or Conservancy Environments. Two small areas are designated as Urban at the town of Littlerock and along Beaver Creek. Fish Pond Creek, a known Oregon spotted frog breeding location, is within the designated Tumwater Urban Growth Area. Within the Natural Environment designation areas, most activity types are prohibited, although livestock grazing, low-intensity recreation, low-density (1 domicile per 10 ac) residences, and conditional shoreline alterations are allowed. Within Conservancy Environments, most activities are conditionally allowed, and would require a permit that must be reviewed and approved by Thurston County and WDOE for consistency with the SMP.

Thurston County approved a revision to the CAO in July 2012. The Thurston County CAO that is the most relevant to Oregon spotted frogs addresses wetlands, although the Fish and Wildlife Habitat Conservation Areas chapter and the 100-year floodplain and Channel Migration Zone designations are also applicable. Activities in most wetlands are regulated, other than those less than or equal to 1,000 square feet (ft^2) in size (although the county can waive this size threshold if a priority species is known to occur). However, due to State law, the 2012 CAO update did not address agricultural activities, and the jurisdictional wetland size for these activities is 22,000 ft^2 in the rural county, 11,000 ft^2 in Urban Growth Areas, or 2,500 ft^2 if adjacent to a stream or its floodplain. As a result, activities that can destroy or modify Oregon spotted frog habitat may still occur, such as asphalt batch plant construction, new agricultural uses, boat ramps, docks, piers, floats, bridge or culvert projects, clearing-grading-excavation activities, and dredging/removal operations. Buffers and mitigation are required, but can be adjusted by the county. In general, wetlands and the associated wetland buffer CAOs strive toward a no-management approach, which may not be beneficial to the maintenance of Oregon spotted frog emergent wetland habitat on a long-term basis. Within the areas occupied by Oregon spotted frogs in the Black River, all breeding habitat is within seasonally flooded areas, which may or may not be defined as wetlands or high ground water hazard areas (both designations would require set-backs). Rather than an avoidance strategy, these areas may require management actions to remove reed canarygrass in order to maintain egg-laying habitat. Seasonally flooded areas where agricultural uses are existing and ongoing are exempt from review under the CAO; however, expansion of activities may trigger additional review. Within Thurston County, protective measures for Oregon spotted frogs are afforded under both the SMP and CAOs, although no measures are specifically directed toward this species.

Skamania County: Skamania County's revision to its SMP is under way, and until revised, the 1980 SMP is in effect (Skamania County SMP 1980). According to the 1980 SMP, Trout Lake Creek is not a shoreline of Skamania County. The portions of Trout Lake Creek that are in Skamania County have no designated critical areas. Therefore, the SMP and CAO are not applicable to Oregon spotted frog habitat in Skamania County.

Klickitat County: Klickitat County's SMP was adopted in 1998, and revised in 2007 (Klickitat County SMP 2007). Based on the 2007 SMP, only Trout Lake Creek is considered a ''shoreline,'' and within the area occupied by Oregon spotted frogs, regulations for both Natural and Conservancy Environments apply. Within the Natural Environments, most activity types are prohibited, except for nonintensive pasturing or grazing, recreation (access trails/passive uses), bulkheads (conditional uses), and shoreline alterations (conditional). Within Conservancy Environments, most activities are conditionally allowed, and require a permit that must be reviewed and approved by Klickitat County and WDOE for consistency.

Klickitat County's CAO was adopted in 2001, and amended in 2004. Mapping of critical areas was not available, so our analysis includes only wetlands provisions. Activities in all wetlands greater than 2,500 ft^2 (232 m^2) in size are regulated; however, some activities are exempted, including agricultural uses and maintenance of surface water systems (for example, irrigation and drainage ditches). These types of activities can destroy or modify Oregon spotted frog habitat. Buffers and mitigation are required, but can be adjusted by the county. In general, wetlands and the associated wetland buffer CAOs strive toward a no-management approach, which may result in the loss of Oregon spotted frog emergent wetland habitat on a long-term basis. Within the areas occupied by Oregon spotted frogs in Klickitat County, all breeding habitat is within seasonally flooded areas, which may or may not be defined as wetlands. Rather than an avoidance strategy, these areas may require management actions to remove reed canarygrass in order to maintain egg-laying habitat. Within Klickitat County, protective measures for Oregon spotted frogs are afforded under both the SMP and CAOs, although no measures are specifically directed toward this species.

Oregon—In Oregon, the Land Conservation and Development Commission in 1974 adopted Goal 5 as a broad, Statewide planning goal that covers more than a dozen resources, including wildlife habitats and natural areas. Goal 5 and related Oregon Administrative Rules (Chapter 660, Divisions 16 and 23) describe how cities and counties are to plan and zone land to conserve resources listed in the goal. Goal 5 is a required planning process that allows local governments to make decisions about land use regulations and whether to protect the individual resources based upon potential conflicts involving economic, social, environmental, and energy consequences. It does not require minimum levels of protections for natural resources, but does require weighing the various impacts to resources from land use.

Counties in Oregon within the range of Oregon spotted frog may have zoning ordinances that reflect protections set forth during the Goal 5 planning process. The following will briefly discuss these within each county where Oregon spotted frogs are currently known to occur.

Deschutes County: In accordance with the Statewide planning process

discussed above, Deschutes County completed a comprehensive plan in 1979, which was updated in 2011, although Oregon spotted frog habitat is not included within the comprehensive plan as a Goal 5 resource site. The comprehensive plan is implemented primarily through zoning. Deschutes County zoning ordinances that regulate the removal and fill of wetlands (18.128.270), development within the floodplain (18.96.100), and siting of structures within 100 ft (30 m) of streams may provide indirect protections to Oregon spotted frog habitat on private lands along the Upper and Little Deschutes Rivers. The Deschutes County zoning regulations do not regulate the draining of wetlands or hydrologic modifications, and the Oregon Division of State Lands (DSL) regulates only actions that involve more than 50 cy (38 m^3) of wetland removal. Therefore, development associated with small wetland removals is neither regulated under the Deschutes County comprehensive plan nor Oregon DSL, which could negatively impact Oregon spotted frog habitat.

Klamath County: Article 57 of the Klamath County Comprehensive Plan Policy (KCCPP) and associated Klamath County Development Code (KCDC) mandates provisions to preserve significant natural and cultural resources; address the economic, social, environmental, and energy consequences of conflicting uses upon significant natural and cultural resources; and permit development in a manner that does not adversely impact identified resource values (KCDC 2005, p. 197). This plan identifies significant wetlands, riparian areas, Class I streams, and fish habitat as a significant resource and identifies potentially conflicting uses including shoreline development or alteration, removal of riparian vegetation, filling or removing material, in-stream modification, introduction of pollutants, water impoundments, and drainage or channelization (KCCPP 2005, pp. 33–34, KCDC 2005, p. 199). All land uses that represent these conflicting uses are reviewed and applicants must clearly demonstrate that the proposed use will not negatively impact the resource (KCDC 2005, p. 200; KCCPP 2005, p. 25). However, all accepted farm practices or forest practices are exempt from this provision (KCDC 2005, p. 198), including (but not limited to) buildings, wineries, mineral exploration, and, under certain circumstances, the establishment of golf courses and agricultural and commercial industries (KCDC 2005, pp. 160–163, 176–177). If any of these practices disturb less than 50 cy (38.2 m^3) of wetlands, they are not regulated by either KCCPP or Oregon DSL. Therefore, the development associated with small wetland removals could negatively impact Oregon spotted frog habitat.

Jackson County: No specific county regulations pertain to wetlands within Jackson County ordinances. This county relies on the Oregon DSL to regulate the development and protection of wetlands (Skyles 2012, pers. comm.).

Summary of Existing Regulatory Mechanisms

The existing regulatory mechanisms described above are not sufficient to reduce or remove threats to the Oregon spotted frog habitat, particularly habitat loss and degradation. The lack of essential habitat protection under Federal, State, Provincial, and local laws leaves this species at continued risk of habitat loss and degradation in British Columbia, Washington, and Oregon. The review of impacts to wetlands under the Clean Water Act is minimal, and several occupied sub-basins in Washington and Oregon do not meet water quality standards. In many cases, laws and regulations that pertain to retention and restoration of wetland and riverine areas are designed to be beneficial to fish species, specifically salmonids, resulting in the unintentional elimination or degradation of Oregon spotted frog habitat. For example, CAOs in some Washington counties prohibit grazing within the riparian corridor, which is an active management technique that, properly applied, can be used to control invasive reed canarygrass.

Additional regulatory flexibility would be desirable for actively maintaining habitat in those areas essential for the conservation of Oregon spotted frog. We note that the area where these potential incompatibilities apply are limited in scope (i.e., approximately 5,000 ac (2,000 ha) and 20 mi (33 km) along the Black Slough and Sumas, Samish, and Black Rivers in Washington), because the area inhabited by Oregon spotted frogs is quite small relative to the extensive range of salmonids. In other cases, no regulations address threats related to the draining or development of wetlands or hydrologic modifications, which can eliminate or degrade Oregon spotted frog habitat. In summary, degradation of habitat for the Oregon spotted frog is ongoing despite existing regulatory mechanisms. These regulatory mechanisms have been insufficient to significantly reduce or remove the threats to the Oregon spotted frog. Therefore, based upon our review of the best information available, we conclude that the existing regulatory mechanisms are inadequate to reduce the threats to the Oregon spotted frog.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Site Size and Isolation/Population Turnover Rates/Breeding Effort Concentrations and Site Fidelity

Most species' populations fluctuate naturally in response to weather events, disease, predation, or other factors. These factors, however, have less impact on a species with a wide and continuous distribution. In addition, smaller, isolated populations are generally more likely to be extirpated by stochastic events and genetic drift (Lande 1988, pp. 1456–1458). Many of the Oregon spotted frog breeding locations comprise fewer than 50 adult frogs, are isolated from other breeding locations, and may already be stressed by other factors, such as drought or predation, and are then more vulnerable to random, naturally occurring events. Where Oregon spotted frog locations have small population sizes and are isolated, their vulnerability to extirpation from factors such as fluctuating water levels, disease, and predation increases.

Funk *et al.* (2008, p. 205) found low genetic variation in Oregon spotted frogs, which likely reflects small effective population sizes, historical or current genetic bottlenecks, and/or low gene flow among populations. Genetic work by Blouin *et al.* (2010) indicates low genetic diversity within and high genetic differentiation among each of the six Oregon spotted frog groups (British Columbia, Chehalis and Columbia drainages, Camas Prairie, central Oregon Cascades, and the Klamath Basin). This pattern of genetic fragmentation is likely caused by low connectivity between sites and naturally small populations sizes. Gene flow is very limited between locations, especially if separated by 6 mi (10 km) or more, and at the larger scale, genetic groups have the signature of complete isolation (Blouin *et al.* 2010, p. 2187). At least two of the locations sampled by Blouin *et al.* (2010) (Camas Prairie and Trout Lake) show indications of recent genetic drift.

Modeling across a variety of amphibian taxa suggests that pond-breeding frogs have high temporal variances of population abundances and high local extinction rates relative to other groups of amphibians, with smaller frog populations undergoing disproportionately large fluctuations in

abundance (Green 2003, pp. 339–341). The vulnerability of Oregon spotted frog egg masses to fluctuating water levels (Hayes *et al.* 2000, pp. 10–12; Pearl and Bury 2000, p. 10), the vulnerability of post-metamorphic stages to predation (Hayes 1994, p. 25), and low overwintering survival (Hallock and Pearson 2001, p. 8) can contribute to relatively rapid population turnovers, suggesting Oregon spotted frogs are particularly vulnerable to local extirpations from stochastic events and chronic sources of mortality (Pearl and Hayes 2004, p. 11). The term ''rapid population turnovers'' refers to disproportionately large fluctuations in abundance.

Oregon spotted frogs concentrate their breeding efforts in relatively few locations (Hayes *et al.* 2000, pp. 5–6; McAllister and White 2001, p. 11). For example, Hayes *et al.* (2000, pp. 5–6) found that 2 percent of breeding sites accounted for 19 percent of the egg masses at the Conboy Lake NWR. Similar breeding concentrations have been found elsewhere in Washington and in Oregon. Moreover, Oregon spotted frogs exhibit relatively high fidelity to breeding locations, using the same seasonal pools every year and often using the same egg-laying sites. In years of extremely high or low water, the frogs may use alternative sites. For example, the Trout Lake Creek and Conboy Lake frogs return to traditional breeding areas every year, but the egg-laying sites change based on water depth at the time of breeding. A stochastic event that impacts any one of these breeding locations could significantly reduce the Oregon spotted frog population associated with that sub-basin.

Egg mass count data suggest a positive correlation and significant link between site size and Oregon spotted frog breeding population size (Pearl and Hayes 2004, p. 12). Larger sites are more likely to provide the seasonal microhabitats required by Oregon spotted frogs, have a more reliable prey base, and include overwintering habitat. The minimum amount of habitat thought to be required to maintain an Oregon spotted frog population is about 10 ac (4 ha) (Hayes 1994, Part II pp. 5 and 7). Smaller sites generally have a small number of frogs and, as described above, are more vulnerable to extirpation. Some sites in Oregon are at or below the 10-ac (4-ha) threshold; however, Pearl and Hayes (2004, p. 14) believe that these sites were historically subpopulations within a larger breeding complex and Oregon spotted frogs may only be persisting in these small sites because the sites exchange migrants or seasonal habitat needs are provided nearby.

Movement studies suggest Oregon spotted frogs are limited in their overland dispersal and potential to recolonize sites. Oregon spotted frog movements are associated with aquatic connections (Watson *et al.* 2003, p. 295; Pearl and Hayes 2004, p. 15). However, within 10 of the 15 occupied sub-basins, one or more of the known breeding locations are isolated and separated by at least 3.1 mi (5 km) (see *Life History,* above), and within 9 of the 15 sub-basins, one or more of the known breeding locations are isolated and separated by at least 6 mi (10 km), the distance over which gene flow is extremely low (see *Taxonomy,* above). In many instances the intervening habitat lacks the substantial hydrological connections that would allow Oregon spotted frog movement. In addition, widespread predaceous fish introductions within these corridors pose a very high risk to frogs that do try to move between known locations. Therefore, should a stochastic event occur that results in the extirpation of an area, natural recolonization is unlikely unless another known location is hydrologically connected and within 3.1 mi (5 km).

In British Columbia, the distance between the Morris Valley, Mountain Slough, and Maria Slough locations is about 8 km and each of these locations is 50–60 km from Maintenance Detachment Aldergrove, making all of the known populations isolated from one another (COSFRT 2012, p. 15). In addition, suitable wetland habitat between any two of these locations is highly fragmented, and movement between populations is unlikely to occur. Based on this information and the small number of breeding individuals (fewer than 350), the Canadian Oregon spotted frog recovery team found that the risk from demographic and environmental stochastic events is high and could result in further local extirpations (COSFRT 2012, p. v).

In five of the six extant sub-basins in Washington, Oregon spotted frogs are restricted to one watershed within the sub-basin. Within four of these sub-basins (South Fork Nooksack, Samish, White Salmon, and Middle Klickitat Rivers), the known breeding locations are aquatically connected, such that movements could occur and facilitate genetic exchange. In the Lower Chilliwack, Oregon spotted frogs are currently known to occur from only one breeding location in one watershed (Sumas River). There may be additional locations within 3.1 mi (5 km) that are aquatically connected, but further surveys would be needed in order to make this determination. In the Black River, known breeding locations occur along the mainstem, as well as in six tributaries. Oregon spotted frogs in Fish Pond Creek are likely isolated from Oregon spotted frogs in the rest of the Black River system due to changes in the outflow of Black Lake. Black Lake Ditch was constructed in 1922, and a pipeline at the outlet of the Black Lake to Black River was constructed in the 1960s; both of these structures changed the flow such that Black Lake drains to the north, except during high flows rather than down the Black River as it did historically (Foster Wheeler Environmental Corporation 2003, pp. 2, 3, 5, 24). Oregon spotted frogs in the other five tributaries may also be isolated from each other because there is little evidence that the frogs use the Black River to move between tributaries, although breeding locations in these tributaries are aquatically connected via the Black River.

In Oregon, two of the eight extant sub-basins contain single, isolated populations of Oregon spotted frogs: Lower Deschutes River (i.e., Camas Prairie) and Middle Fork Willamette River (i.e., Gold Lake). The McKenzie River sub-basin contains two populations of Oregon spotted frogs that are in close proximity but have no apparent hydrologic connection to each other or to populations in other sub-basins. In the Deschutes River Basin, Oregon spotted frog breeding sites are found throughout two sub-basins: The Upper Deschutes River and the Little Deschutes River. These two sub-basins are aquatically connected at the confluence of the Little Deschutes River and the mainstem Deschutes River below Wickiup Reservoir. Genetic exchange likely occurs between Oregon spotted frogs on the lower reach of the Little Deschutes River and those along the Deschutes River at Sunriver where breeding occurs within 3.1 mi (5 km). The Wickiup dam and regulated flows out of the reservoir limit connectivity for Oregon spotted frogs to move within the Upper Deschutes River sub-basin, such that connectivity between the populations above and below the dam are unlikely. There are at least five breeding locations below Wickiup Reservoir, two of which are within 6 mi (10 km) but separated by a waterfall along the Deschutes River. Above Wickiup Reservoir, there are approximately six clusters of breeding sites that may be isolated from each other by lack of hydrologic connectivity

(i.e., lakes without outlets) or distances greater than 6 mi (10 km).

In the Little Deschutes River sub-basin, approximately 23 known breeding locations are within five watersheds: Upper, Middle and Lower Little Deschutes River; Crescent Creek; and Long Prairie. Most breeding locations throughout the Little Deschutes River sub-basin are within 6 mi (10 km) of each other, and, given that much of the private land is unsurveyed, the distance between breeding areas is likely smaller. In the lower reach of the Little Deschutes River near the confluence with the Deschutes River where more extensive surveys have been conducted, breeding sites are within 3.1 mi (5 km). Wetland complexes are extensive and continuous along the Little Deschutes River and its tributaries, which likely provides connectivity between breeding areas. Regulated flows out of Crescent Lake may affect the aquatic connectivity between breeding locations, although the impacts to Oregon spotted frog connectivity are not fully understood. The Long Prairie watershed also has been hydrologically altered by the historical draining of wetlands and ditching to supply irrigation water. Connectivity between three known breeding locations within this watershed is likely affected by the timing and duration of regulated flows, and historic ditching for irrigation.

Oregon spotted frogs are found in six watersheds within three sub-basins of the Klamath River Basin in Oregon (Williamson River, Upper Klamath Lake, and Upper Klamath). Within the Williamson River sub-basin, individuals in the Jack Creek watershed are isolated from other populations due to lack of hydrologic connectivity. The Klamath Marsh and Upper Williamson populations are aquatically connected such that movements could occur and facilitate genetic exchange, although this presumed gene flow has not been demonstrated by recent genetic work (Robertson and Funk 2012, p. 10).

The Upper Klamath Lake sub-basin populations are found in two watersheds: Wood River and Klamath Lake. Populations within and adjacent to the Wood River are aquatically connected and genetically similar (Robertson and Funk 2012, p. 10). However, while the Wood River populations and the Klamath Lake populations have genetic similarities (Robertson and Funk 2012, pp. 10, 11), altered hydrologic connections, distances (>6 mi (terrestrial) (10 km)), and invasive species have created inhospitable habitat. These conditions make it unlikely that individual frogs are able to move between watersheds or establish additional breeding complexes along the current hydrologic system. The only potential for hydrologic connectivity and movement between populations in the Klamath Lake populations is between Sevenmile Creek and Crane Creek, and between the individual breeding complexes on the Wood River in the Wood River watershed. The Upper Klamath sub-basin's Parsnip Lakes and Buck Lake populations are isolated from each other and the other Klamath Basin populations (Robertson and Funk 2012, p. 5) due to great hydrological distances (>20 mi (32 km)) and barriers (inhospitable habitat and dams).

Site size and isolation/population turnover rates/breeding effort concentrations and site fidelity conclusion—Historically, Oregon spotted frogs were likely distributed throughout a watershed, occurred in multiple watersheds within a sub-basin, and adjusted their breeding areas as natural disturbances, such as flood events and beaver activity, shifted the location and amount of appropriate habitat. Currently, Oregon spotted frogs are restricted in their range within most occupied sub-basins (in some cases only occurring in one watershed), and breeding areas are isolated (greater than dispersal distance apart). Many of the Oregon spotted frog breeding locations across the range comprise fewer than 50 adult frogs and are isolated from other breeding locations. Genetic work indicates low genetic diversity within and high genetic differentiation among the six Oregon spotted frog groups. Each of these groups have the signature of complete isolation, and two show indications of recent genetic drift (a change in the gene pool of a small population that takes place strictly by chance). Oregon spotted frogs can experience rapid population turnovers because of their breeding location fidelity and vulnerability to fluctuating water levels, predation, and low overwinter survival. A stochastic event at any one of these small, isolated breeding locations could significantly reduce the Oregon spotted frog population associated with that sub-basin. Therefore, based on the best information available, we consider small site size and isolation and small population sizes to be a threat to the Oregon spotted frog.

Water Quality and Contamination

Poor water quality and water contamination are playing a role in the decline of Oregon spotted frogs, and water quality concerns have been specifically noted within six of the occupied sub-basins (see Table 2 under *Cumulative Effects from Factors A through E,* below, and *Factor D* discussion, above), although data specific to this species are limited. Because of this limitation, we have examined responses by similar amphibians as a surrogate for impacts on Oregon spotted frogs. Studies comparing responses of amphibians to other aquatic species have demonstrated that amphibians are as sensitive as, and often more sensitive than, other species when exposed to aquatic contaminants (Boyer and Grue 1995, p. 353). Immature amphibians absorb contaminants during respiration through the skin and gills. They may also ingest contaminated prey. Pesticides, heavy metals, nitrates and nitrites, and other contaminants introduced into the aquatic environment from urban and agricultural areas are known to negatively affect various life stages of a wide range of amphibian species, including ranid frogs (Hayes and Jennings 1986, p. 497; Boyer and Grue 1995, pp. 353–354; Hecnar 1995, pp. 2133–2135; Materna *et al.* 1995, pp. 616–618; NBII 2005; Mann *et al.* 2009, p. 2904). Exposure to pesticides can lower an individual's immune function, which increases the risk of disease or possible malformation (Stark 2005, p. 21; Mann *et al.* 2009, pp. 2905, 2909). In addition, it has been demonstrated that some chemicals reduce growth and delay development.

A reduction of growth or development would prolong an individual's larval period, thus making it more susceptible to predators for a longer period of time or resulting in immobility during periods of time when movement between habitats may be necessary (Mann *et al.* 2009, p. 2906). Many of the described effects from pesticides are sublethal but ultimately may result in the mortality of the exposed individuals as described above. Furthermore, the results of several studies have suggested that, while the impacts of individual chemicals on amphibians are sublethal, a combination or cocktail of a variety of chemicals may be lethal (Mann *et al.* 2009, p. 2913; Bishop *et al.* 2010, p. 1602). The use of pesticides may be occurring throughout the range of the Oregon spotted frog due to the species' overlap with agricultural and urban environments; however, information regarding the extent, methods of application, and amounts applied is not available. Therefore, we are unable to make an affirmative determination at this time that pesticides are a threat.

There are two agents commonly used for mosquito abatement within the range of Oregon spotted frog: *Bacillus*

thuringiensis var. *israelensis* (*Bti*) and methoprene. *Bti* is a bacterial agent that has no record of adverse direct effects on amphibians, but methoprene has been historically linked to abnormalities in southern leopard frogs (*Lithobates utricularia*), including completely or partially missing hind limbs, discoloration, and missing eyes. Missing eyes and delayed development in northern cricket frogs (*Acris crepitans*) have also been linked to methoprene (Stark 2005, p. 20). However, a recent scientific literature review suggests that methoprene is not ultimately responsible for frog malformations (Mann *et al.* 2009, pp. 2906–2907). The findings of this review suggest that, in order for malformations to occur, the concentration of methoprene in the water would induce mortality (Mann *et al.* 2009, p. 2906).

We also evaluated the indirect effect that *Bti* and methoprene may have on Oregon spotted frogs by reducing their insect prey species. When used for mosquito abatement, both *Bti* and methoprene most strongly affect flies belonging to the suborder Nematocera (the thread-horned flies), which includes mosquitos, but may also other chironomid flies such as non-biting midges (*Chironomidae*) (Hershey *et al.* 1998, p. 42; Lawler *et al.* 2000, p. 177; Rochlin *et al.* 2011, pp. 11–13). We compiled information on the number of insect orders recorded as present during stomach content studies (Licht 1986a, p. 28; Pearl and Hayes 2002, pp. 145–147; Pearl *et al.* 2005a, p. 37) and then examined the proportion of the order (diptera; flies) primarily affected by *Bti* and methoprene in relation to the rest of the recorded diet of the Oregon spotted frog. While there are not many data to consider, the kinds of flies most commonly affected compose a small portion of the overall diet of the Oregon spotted frogs that were included in the stomach content studies. We conclude that *Bti* and methoprene, applied as recommended for mosquito control, are likely to have a negligible effect on Oregon spotted frogs due to the diversity of the species' diet. This is our conclusion for this species only. We do not assume that these agents could not present a threat to other species of frogs that are more dependent on the nematoceran diptera that *Bti* and methoprene do negatively affect. Therefore, based on the best available information, we do not consider *Bti* or methoprene to be a threat to Oregon spotted frogs.

Although the effects on amphibians of rotenone, which is used to remove undesirable fish from lakes, are poorly understood, mortality likely occurs at treatment levels used on fish (McAllister *et al.* 1999, p. 21). The role of rotenone treatments in the disappearance of Oregon spotted frogs from historical sites is unknown; however, some studies indicate that amphibians might be less sensitive than fish and might be capable of recovering from exposure to rotenone (Mullin *et al.* 2004, pp. 305–306; Walston and Mullin 2007, p. 65). However, these studies did not measure the effects on highly aquatic amphibians, like the Oregon spotted frog. In fall of 2011, the ODFW used rotenone to remove goldfish from a small pond adjacent to Crane Prairie Reservoir. In April 2012, approximately 40 spotted frog egg masses were located in the pond, where there had been no prior record of Oregon spotted frog occupancy in the past (Wray 2012, pers. comm.). No rotenone treatments in Cascade lakes occupied by Oregon spotted frog are planned in the near future (Hodgson 2012, pers. comm.), and to date, in the Upper Klamath Lake sub-basin, no fish killing agents have been applied within Oregon spotted frog habitat (Banish 2012, pers. comm.). Therefore, based on the best available information, we do not consider rotenone to be a threat to Oregon spotted frogs.

Water acidity (low pH) can inhibit fertilization and embryonic development in amphibians, reduce their growth and survival through physiological alterations, and produce developmental anomalies (Hayes and Jennings 1986, pp. 498–499; Boyer and Grue 1995, p. 353). A low pH may enhance the effects of other factors, such as activating heavy metals in sediments. An elevated pH, acting singly or in combination with other factors such as low dissolved oxygen, high water temperatures, and elevated un-ionized ammonia levels, may have detrimental effects on developing frog embryos (Boyer and Grue 1995, p. 354). Concerns about pH levels have been identified in sub-basins occupied by the Oregon spotted frog.

Required dissolved oxygen levels for Oregon spotted frogs have not been evaluated; however, a number of studies have been conducted on amphibians that indicate that the amount of dissolved oxygen can affect all life stages. Low oxygen levels can affect the rate of egg development, time to hatching, and development stage at hatching. For example, Mills and Barnhart (1999, p. 182) found that embryos of two salamanders developed more slowly and hatching was delayed. In contrast, in two ranid frog species, low oxygen levels resulted in embryos hatching sooner and in a less developed stage (Mills and Barnhart 1999, p. 182). As dissolved oxygen levels decreased below 4.0 to 4.25 parts per million, Wassersug and Seibert (1975, pp. 90–93), found tadpoles of *Rana pipiens* and *Bufo woodhousii* swam to the surface (not a normal behavior), and all remained at the surface at levels below 2.0 parts per million. Similarly, Moore and Townsend (1998, p. 332) found that decreasing oxygen levels increased the number of times *Rana clamitans* tadpoles surfaced and the amount of time spent at the surface. This behavior increased the risk of predation because signficantly more *Rana clamitans* tadpoles were eaten when mean oxygen levels were at or below 2.7 mg/L (Moore and Townsend 1998, p. 332). Ranid species have been found to use overwintering microhabitat with well-oxygenated waters (Ultsch *et al.* 2000, p. 315; Lamoureux and Madison 1999, p. 434), although some evidence indicates that Oregon spotted frogs can tolerate levels at or somewhat below 2.0 mg/L during the winter for short periods (Hayes *et al.* 2001, pp. 20–22; Risenhoover *et al.* 2001b, pp. 17–18).

Marco *et al.* (1999, p. 2838) demonstrated the strong sensitivity of Oregon spotted frog tadpoles to nitrate and nitrite ions in laboratory experiments, and suggested that nitrogen-based chemical fertilizers may have contributed to the species' decline in the lowland areas of its distribution. This research suggests that the recommended maximum levels of nitrates (10 milligrams/Liter (mg/L)) and nitrites (1 mg/L) in drinking water are moderately to highly toxic for Oregon spotted frogs, indicating that EPA water quality standards do not protect sensitive amphibian species (Marco *et al.* 1999, p. 2838). In the Marco *et al.* study, Oregon spotted frog tadpoles did not show a rapid adverse effect to nitrate ions, but at day 15 of exposure they reflected high sensitivity followed by synchronous death. Many public water supplies in the United States contain levels of nitrate that routinely exceed concentrations of 10 mg/L of nitrate; the median lethal concentrations for aquatic larvae of the Oregon spotted frog is less than 10 mg/L (Marco *et al.* 1999, p. 2838). Grazing is one source of nitrates and nitrites; according to the EPA, the major sources of nitrates in drinking water are runoff from fertilizer use, leaking from septic tanks and sewage, and erosion of natural deposits. Most currently known occupied sites for Oregon spotted frog are located in areas where residential septic tanks are used and farming practices include fertilizer application and grazing.

Elevated sources of nutrient inputs into river and wetland systems can result in eutrophic (nutrient-rich) conditions, characterized by increased productivity, such as blooms of algae, that can produce a high pH and low dissolved oxygen. Increased eutrophic conditions in the Upper Klamath Lake sub-basin may have contributed to the absence of Oregon spotted frogs. Beginning in 2002, algal blooms, poor water quality, and low dissolved oxygen were documented in Jack Creek, during which a decline in Oregon spotted frog reproduction was also documented (Oertley 2005, pers. comm.).

Water quality concerns have been documented in several waterbodies occupied by the Oregon spotted frog. In Washington, portions of the Sumas River; Black Slough in the South Fork Nooksack sub-basin; portions of the Samish River; segments of the Black River; segments of Dempsey, Allen, and Beaver Creeks in the Black River sub-basin; and a segment in the upper portion of Trout Lake Creek are listed by the WDOE as not meeting water quality standards for a variety of parameters, including temperature, fecal coliform, pH, and dissolved oxygen. In Oregon, many of the streams associated with Oregon spotted frog habitat are listed by the Oregon Department of Environmental Quality as not meeting water quality standards for multiple parameters: (1) Little Deschutes River—temperature, dissolved oxygen, chlorophyll A, pH, aquatic weeds or algae; (2) Deschutes River—temperature, dissolved oxygen, turbidity, sedimentation; (3) Middle Fork Willamette River—sedimentation; (4) Upper Klamath—temperature; and (5) Williamson River—sedimentation.

In British Columbia, Oregon spotted frogs at Morris Valley, Mountain Slough, and Maria Slough are in largely agricultural areas. Agricultural runoff includes fertilizers (including manure); runoff or percolation into the groundwater from manure piles (Rouse *et al.* 1999); and spraying of agricultural chemicals such as pesticides or insecticides (including *Bacillus thuringiensis* bacterium) or fungicides (used by blueberry producers), including wind-borne chemicals. Water-borne sewage and non-point source runoff from housing and urban areas that include nutrients, toxic chemicals, and/or sediments may also be increasing in intensity. Additional sources of contaminants may include chemical spraying during forestry activities, maintenance of power line corridors, or disruption of normal movements of nutrients by forestry activities (Canadian Recovery Strategy (COSFRT) 2012, p. 21). The COSFRT (2012, p. 17) identifies pollution associated with agricultural and forestry effluents as being (1) high impact; (2) large in scope; (3) serious in severity; (4) high in timing; and (5) a stress that has direct and indirect mortality results. One of the recovery objectives is to coordinate with the Minister of Agriculture to implement supporting farming practices and environmental farm plans options to decrease agrochemical and nutrient pollution into Oregon spotted frog habitat and work with all levels of government, land managers, and private landowners to inform and encourage best practices and ensure compliance in relation to water quality, hydrology, and land use practice (COSFRS 2012, p. 34).

Although more research is needed, Johnson *et al.* (2002a; Johnson and Chase 2004) state that eutrophication associated with elevated nitrogen (and phosphorus) has been linked with increased snail populations. Johnson and Chase (2004, p. 522) point to elevated levels of nutrients (particularly phosphorus) from agricultural fertilizers and cattle grazing in freshwater ecosystems as causing shifts in the composition of aquatic snails from small species to larger species. These larger species serve as intermediate hosts for a parasite (*Ribeiroia ondatrae*), which causes malformations in amphibians (see ''Disease'' under *Factor C* discussion, above).

Water quality and contamination conclusion—Although pesticides are known to affect various life stages of the Oregon spotted frog, the impact of this potential threat is undetermined at this time. We do not consider rotenone or methoprene to be threats to the species.

Oregon spotted frogs are highly aquatic throughout their life cycle, and are thus likely to experience extended exposure to any waterborne contaminants. Poor water quality parameters and contaminants may act singly or in combination with other factors to result in inhibited fertilization and embryonic development, developmental anomalies, or reduced growth and survival. More work on the species' ecotoxicology is warranted. However, reduced water quality is documented in a number of occupied sub-basins, and where this overlap occurs we consider poor water quality and contaminants to be threats to the Oregon spotted frog.

Hybridization

Hybridization between Oregon spotted frogs and closely related frog species is unlikely to affect the survival of the Oregon spotted frog. Natural hybridization between Oregon spotted frogs and Cascade frogs has been demonstrated experimentally and verified in nature (Haertel and Storm 1970, pp. 436–444; Green 1985, p. 263). However, the offspring are infertile, and the two species seldom occur together. Hybridization between Oregon spotted frogs and red-legged frogs has also been confirmed (I.C. Phillipsen and K. McAllister cited in Hallock 2013, p. 7), but it is unknown if the hybrids are fertile. Because Oregon spotted frog and Columbia spotted frog populations are not known to occur together, based on the best available information, we do not consider hybridization to be a threat to Oregon spotted frogs.

Climate Change

Our analyses under the Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). The term ''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 2007a, p. 78). 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 2007a, p. 78).

Scientific measurements spanning several decades demonstrate that changes in climate are occurring, and that the rate of change has been faster since the 1950s. Examples include warming of the global climate system, and substantial increases in precipitation in some regions of the world and decreases in other regions. (For these and other examples, see IPCC 2007a, p. 30; Solomon *et al.* 2007, pp. 35–54, 82–85). Results of scientific analyses presented by the IPCC show that most of the observed increase in global average temperature since the mid-20th century cannot be explained by natural variability in climate, and is ''very likely'' (defined by the IPCC as 90 percent or higher probability) due to the observed increase in greenhouse gas (GHG) concentrations in the atmosphere as a result of human activities, particularly carbon dioxide emissions from use of fossil fuels (IPCC 2007a, pp. 5–6 and figures SPM.3 and SPM.4; Solomon *et al.* 2007, pp. 21–35). Further confirmation of the role of GHGs comes from analyses by Huber and Knutti (2011, p. 4), who concluded it is extremely likely that approximately 75

percent of global warming since 1950 has been caused by human activities.

Scientists use a variety of climate models, which include consideration of natural processes and variability, as well as various scenarios of potential levels and timing of GHG emissions, to evaluate the causes of changes already observed and to project future changes in temperature and other climate conditions (e.g., Meehl *et al.* 2007, entire; Ganguly *et al.* 2009, pp. 11555, 15558; Prinn *et al.* 2011, pp. 527, 529). All combinations of models and emissions scenarios yield very similar projections of increases in the most common measure of climate change, average global surface temperature (commonly known as global warming), until about 2030. Although projections of the magnitude and rate of warming differ after about 2030, the overall trajectory of all the projections is one of increased global warming through the end of this century, even for the projections based on scenarios that assume that GHG emissions will stabilize or decline. Thus, strong scientific data support projections that warming will continue through the 21st century, and that the magnitude and rate of change will be influenced substantially by the extent of GHG emissions (IPCC 2007a, pp. 44–45; Meehl *et al.* 2007, pp. 760–764, 797–811; Ganguly *et al.* 2009, pp. 15555–15558; Prinn *et al.* 2011, pp. 527, 529). (See IPCC 2007b, p. 8, for a summary of other global projections of climate-related changes, such as frequency of heat waves and changes in precipitation. Also see IPCC 2012 (entire) for a summary of observations and projections of extreme climate events.)

Various changes in climate may 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 interactions of climate with other variables (e.g., habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). Identifying likely effects often involves aspects of climate change vulnerability analysis. Vulnerability refers to the degree to which a species (or system) is susceptible to, and unable to cope with, adverse effects of climate change, including climate variability and extremes. Vulnerability is a function of the type, magnitude, and rate of climate change and variation to which a species is exposed, its sensitivity, and its adaptive capacity (IPCC 2007a, p. 89; see also Glick *et al.* 2011, pp. 19–22). No single method for conducting such analyses applies to all situations (Glick *et al.* 2011, p. 3). We use our expert judgment and appropriate analytical approaches to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

As is the case with all stressors that we assess, even if we conclude that a species is currently affected or is likely to be affected in a negative way by one or more climate-related impacts, the species does not necessarily meet the definition of an ''endangered species'' or a ''threatened species'' under the Act. If a species is listed as an endangered or threatened species, knowledge regarding the vulnerability of the species to, and known or anticipated impacts from, climate-associated changes in environmental conditions can be used to help devise appropriate strategies for its recovery.

Global climate projections are informative, and, in some cases, the only or the best scientific information available for us to use. However, projected changes in climate and related impacts can vary substantially across and within different regions of the world (e.g., IPCC 2007a, pp. 8–12). Therefore, we use ''downscaled'' projections when they are available and have been developed through appropriate scientific procedures, because such projections provide higher resolution information that is more relevant to spatial scales used for analyses of a given species (see Glick *et al.* 2011, pp. 58–61, for a discussion of downscaling). With regard to our analysis for the Oregon spotted frog, downscaled projections are available.

The climate in the PNW has already experienced a warming of 0.8 degrees Celsius (C) (1.4 degrees Fahrenheit (F)) during the 20th century (Mote *et al.* 2008, p. 3). Using output from eight climate models, the PNW is projected to warm further by 0.6 to 1.9 degrees C (1.1 to 3.4 degrees F) by the 2020s, and 0.9 to 2.9 degrees C (1.6 to 5.2 degrees F) by the 2040s (Mote *et al.* 2008, pp. 5–6). Additionally, the majority of models project wetter winters and drier summers (Mote *et al.* 2008, p. 7), and of greatest consequence, a reduction in regional snowpack, which supplies water for ecosystems during the dry summer (Mote *et al.* 2003). The small summertime precipitation increases projected by a minority of models do not change the fundamentally dry summers of the PNW and do not lessen the increased drying of the soil column brought by higher temperatures (Mote *et al.* 2003, p. 8).

Watersheds that are rain dominated (such as the Fraser River in British Columbia and the Black River in Washington) will likely experience higher winter streamflow because of increases in average winter precipitation, but overall will experience relatively little change with respect to streamflow timing (Elsner *et al.* 2010, p. 248). Water temperatures for western Washington are generally cooler than those in the interior Columbia basin; however, climate change predictions indicate the summertime stream temperatures exceeding 19.5 degrees C (67.1 degrees F) will increase, although by a smaller fraction than the increases in the interior Columbia basin (Mantua *et al.* 2010, p. 199).

Transient basins (mixed rain- and snowmelt-dominant usually in mid elevations, such as Lower Chilliwack, SF Nooksack, White Salmon, and Middle Klickitat Rivers sub-basins in Washington) will likely experience significant shifts in streamflow and water temperature, becoming rain dominant as winter precipitation falls more as rain and less as snow, and undergo more severe summer low-flow periods and more frequent days with intense winter flooding (Elsner *et al.* 2010, pp. 248, 252, 255; Mantua *et al.* 2010, entire).

Snowmelt-dominated watersheds, such as White Salmon in Washington and the Upper Deschutes, Little Deschutes, and Klamath River sub-basins in Oregon, will likely become transient, resulting in reduced peak spring streamflow, increased winter streamflow, and reduced late summer flow (Littell *et al.* 2009, p. 8). In snowmelt-dominated watersheds that prevail in the higher altitude catchments and in much of the interior Columbia Basin, flood risk will likely decrease and summer low flows will decrease in most rivers under most scenarios (Littell *et al.* 2009, p. 13).

In Washington, the snow water equivalent measured on April 1 is projected to decrease by 28 to 30 percent across the State by the 2020s, 38 to 46 percent by the 2040s, and 56 to 70 percent by the 2080s, and the areas with elevations below 3,280 ft (1,000 m) will experience the largest decreases in snowpack, with reductions of 68 to 80 percent by the 2080s (Elsner *et al.* 2010, p. 244). In the Puget Trough sub-basins, summertime soil moisture will decrease as a result of the warming climate and reduced snowpack. While annual precipitation is projected to slightly increase across the State, by 3.4 percent by the 2080s, the seasonality of the precipitation will change more dramatically with increased winter and decreased summer precipitation, with most of the precipitation falling between

October and March (Elsner *et al.* 2010, p. 247).

Climate change models predict that water temperatures will rise throughout Oregon as air temperatures increase into the 21st century. A decline in summer stream flow may exacerbate water temperature increases as the lower volume of water absorbs solar radiation (Chang and Jones 2010, p. 134).

Analyses of the hydrologic responses of the upper Deschutes basin (including the Upper and Little Deschutes River sub-basins) and the Klamath Basin to climate change scenarios indicates that the form of precipitation will shift from predominately snow to rain and cause decreasing spring recharge and runoff and increasing winter recharge and runoff (Waibel 2011, pp. 57–60; Mayer and Naman 2011, p. 3). However, there is spatial variation within the Deschutes sub-basins as to where the greatest increases in recharge and runoff will occur (Waibel 2011, pp. 57–60). Changes in seasonality of stream flows may be less affected by climate change along the crest of the Cascades in the upper watersheds of the Deschutes, Klamath, and Willamette River basins in Oregon, where many rivers receive groundwater recharge from subterranean aquifers and springs (Chang and Jones 2010, p. 107). Summer stream flows may thus be sustained in high Cascade basins that are groundwater fed (Chang and Jones 2010, p. 134). Conversely, Mayer and Naman (2011, p. 1) indicate that streamflow into Upper Klamath Lake will display absolute decreases in July–September base flows in groundwater basins as compared to surface-dominated basins. This earlier discharge of water in the spring will result in less streamflow in the summer (Mayer and Naman 2011, p. 12).

Although predictions of climate change impacts do not specifically address Oregon spotted frogs, short- and long-term changes in precipitation patterns and temperature regimes will likely affect wet periods, winter snow pack, and flooding events (Chang and Jones 2010). These changes are likely to affect amphibians through a variety of direct and indirect pathways, such as range shifts, breeding success, survival, dispersal, breeding phenology, availability and quality of aquatic habitats, food webs, competition, spread of diseases, and the interplay among these factors (Blaustein *et al.* 2010, entire; Hixon *et al.* 2010, p. 274; Corn 2003, entire). Amphibians have species-specific temperature tolerances, and exceeding these thermal thresholds is expected to reduce survival (Blaustein *et al.* 2010, pp. 286–287). Earlier spring thaws and warmer ambient temperatures may result in earlier breeding, especially at lower elevations in the mountains where breeding phenology is driven more by snow pack than by air temperature (Corn 2003, p. 624). Shifts in breeding phenology may also result in sharing breeding habitat with species not previously encountered and/or new competitive interactions and predator/prey dynamics (Blaustein *et al.* 2010, pp. 288, 294). Oregon spotted frogs are highly aquatic, and reductions in summer flows may result in summer habitat going dry, potentially resulting in increased mortality or forcing frogs to seek shelter in lower quality wetted areas where they are more susceptible to predation.

Amphibians are susceptible to many types of pathogens including trematodes, copepods, fungi, oomycetes, bacteria, and viruses. Changes in temperature and precipitation could alter host-pathogen interactions and/or result in range shifts resulting in either beneficial or detrimental impacts on the amphibian host (Blaustein *et al.* 2010, p. 296). Kiesecker *et al.* (2001a, p. 682) indicate climate change events, such as El Nino/Southern Oscillation, that result in less precipitation and reduced water depths at egg-laying sites results in high mortality of embryos because their exposure to UV–B and vulnerability to infection (such as *Saprolegnia*) is increased. Warmer temperatures and less freezing in areas occupied by bullfrogs is likely to increase bullfrog winter survivorship, thereby increasing the threat from predation. Uncertainty about climate change impacts does not mean that impacts may or may not occur; it means that the risks of a given impact are difficult to quantify (Schneider and Kuntz-Duriseti 2002, p. 54; Congressional Budget Office 2005, entire; Halsnaes *et al.* 2007, p. 129). Oregon spotted frogs occupy habitats at a wide range of elevations, and all of the occupied sub-basins are likely to experience precipitation regime shifts; therefore, the Oregon spotted frog's response to climate change is likely to vary across the range, and the population-level impacts are uncertain. The interplay between Oregon spotted frogs and their aquatic habitat will ultimately determine their population response to climate change. Despite the potential for future climate change throughout the range of the species, as discussed above, we have not identified, nor are we aware of any data on, an appropriate scale to evaluate habitat or population trends for the Oregon spotted frog or to make predictions about future trends and whether the species will be significantly impacted.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), maintains voluntary agreements with private landowners concerning application of pesticides within the United States. Based on their 2010 operational procedures, all waterbodies (rivers, ponds, reservoirs, streams, vernal pools, wetlands, etc.) will be avoided by a minimum of a 50-foot buffer for ground application of bait, a 200-foot buffer for aerial application of bait, and a 500-foot buffer for the aerial application of liquids (USDA APHIS 2010, p. 4). As previously described under other threat factors, conservation efforts may also help reduce the threat of other natural or manmade factors affecting the species.

Summary of Other Natural or Manmade Factors

Many of the Oregon spotted frog breeding locations are small and isolated from other breeding locations. Moreover, due to their fidelity to breeding locations and vulnerability to fluctuating water levels, predation, and low overwinter survival, Oregon spotted frogs can experience rapid population turnovers that they may not be able to overcome. Genetic work indicates low genetic diversity within and high genetic differentiation among the six Oregon spotted frog groups identified by Blouin, and each of these groups has the signature of complete isolation with two groups showing indications of recent genetic drift. Poor water quality parameters and contaminants may act singly or in combination with other factors to result in inhibited fertilization and embryonic development, developmental anomalies, or reduced growth and survival. Oregon spotted frogs in every occupied sub-basin are subject to more than one stressor, such as loss or reduced quality of habitat and predation and, therefore, may be more susceptible to mortality and sublethal effects. The changing climate may exacerbate these stressors. Therefore, based on the best information available, we conclude that other natural or manmade factors are a threat to the Oregon spotted frog, which has significant population effects occurring throughout the entire (current) range of the species and these effects are expected to continue into the future.

Cumulative Effects From Factors A Through E

The Oregon spotted frog faces several threats, and all occupied sub-basins are

subjected to multiple threats, which cumulatively pose a risk to individual populations (see Table 2, below). Many of these threats are intermingled, and the magnitude of the combined threats to the species is greater than the individual threats. For example, the small sizes and isolation of the majority of Oregon spotted frog breeding locations makes Oregon spotted frogs acutely vulnerable to fluctuating water levels, disease, predation, poor water quality, and extirpation from stochastic events. Hydrologic changes, resulting from activities such as water diversions and removal of beavers, increase the likelihood of fluctuating water levels and temperatures, and may also facilitate predators. Existing regulatory mechanisms facilitate hydrologic changes, and restoration actions are specifically designed to benefit salmonid species, which often results in the reduction of habitat quality and quantity for Oregon spotted frogs where they overlap.

Habitat management and a warming climate may improve conditions for pathogens and predators. *Saprolegnia, Bd,* and *Ribeiroia ondatrae* have been found in Oregon spotted frogs, and compounded with other stressors, such as UV–B exposure, degradation of habitat quality, or increased predation pressure, may contribute to population declines. *Bd* and *R. ondatrae,* in particular, infect post-metamorphic frogs and reductions in these life stages are more likely to lead to population declines. Sub-basins projected to transition from snow-dominant or transient to rain-dominant will be less susceptible to freezing temperatures with the expectation of reduced mortality of bullfrogs during winter and increased predation risk to Oregon spotted frogs.

Amphibian declines may frequently be associated with multiple correlated factors (Adams 1999, pp. 1167–1169). Two of the greatest threats to freshwater systems in western North America, exotic species and hydrological changes, are often correlated. In addition, occurrence and abundance of bullfrogs may be linked with invasions by nonnative fish (Adams *et al.* 2003, p. 349; Rowe and Garcia 2014, p. 147). Adams (1999) examined the relationships among introduced species, habitat, and the distribution and abundance of red-legged frogs in western Washington. Red-legged frog occurrence in the Puget lowlands was more closely associated with habitat structure and exotic fish than with the presence of bullfrogs (Adams 1999, pp. 1167–1168), and similar associations were found in a recent study in Oregon's Willamette Valley (Pearl *et al.* 2005b, p. 16). Rowe and Garcia (2014, p. 147) found native anuran counts were consistently lower in wetlands with nonnative fish, whereas bullfrog counts were higher. The spread of exotic species is correlated with a shift toward greater permanence in wetland habitats regionally (for example, Kentula *et al.* 1992, p. 115). For example, exotic fish and bullfrogs are associated with permanent wetlands. Conservation of more ephemeral wetland habitats, which directly benefit native amphibians such as Oregon spotted frogs, would be expected to reduce predation and competition threats posed by exotic fish and bullfrogs (Adams 1999, pp. 1169–1170; Rowe and Garcia 2014, p. 150). However, bullfrogs may be adapting because they have recently been found successfully breeding in ephemeral wetlands in the Willamette Valley, Oregon (Cook 2013, p. 656).

Amphibians are affected by complex interactions of abiotic and biotic factors, and are subjected simultaneously to numerous interacting stressors. For example, contaminants and UV–B radiation may result in mortality or induce sublethal effects on their own, but they may have synergistic, interaction effects that exceed the additive effects when combined. Some stressors, such as contaminants, may hamper the immune system, making amphibians more susceptible to pathogenic infections (Kiesecker 2002, p. 9902). Predator presence can alter the behavior of amphibians, resulting in more or less exposure to UV–B radiation (Michel and Burke 2011), thereby altering the rate of malformations. Climate-driven dry events that result in lower water levels may concentrate contaminants, as well as increase the amount of exposure to UV–B radiation. While any one of these individual stressors may not be a concern, a contaminant added to increased UV–B radiation exposure and a normally healthy population level of *Ribeiroia ondatrae* may lead to a higher mortality rate or an increased number of malformed frogs that exceeds the rate caused by any one factor alone (Blaustein *et al.* 2003, entire; Szurocksi and Richardson 2009 p. 382). Oregon spotted frogs in every occupied sub-basin are subject to more than one stressor and, therefore, may be more susceptible to mortality and sublethal effects.

The historical loss of Oregon spotted frog habitats and lasting anthropogenic changes in natural disturbance processes are exacerbated by the introduction of reed canarygrass, nonnative predators, and potentially climate change. In addition, current regulatory mechanisms and voluntary incentive programs designed to benefit fish species have inadvertently led to the continuing decline in quality of Oregon spotted frog habitats in some locations. The current wetland and stream vegetation management paradigm is generally a no-management or restoration approach that often results in succession to a tree- and shrub-dominated community that unintentionally degrades or eliminates remaining or potential suitable habitat for Oregon spotted frog breeding. Furthermore, incremental wetland loss or degradation continues under the current regulatory mechanisms. If left unmanaged, these factors are anticipated to result in the eventual elimination of remaining suitable Oregon spotted frog habitats or populations. The persistence of habitats required by the species is now largely management dependent.

Conservation efforts to ameliorate impacts from habitat degradation and predators are currently under way; however, the benefits of these conservation actions to Oregon spotted frogs are site-specific and do not counteract the impacts at a sub-basin scale. The cumulative effects of these threats are more than additive, and removing one threat does not ameliorate the others and may actually result in an increase in another threat. For example, removing livestock grazing to improve water quality—without continuing to manage the vegetation—can allow invasive reed canarygrass, trees, and shrubs to grow and effectively eliminate egg-laying habitat.

Therefore, based on the best scientific information available, we conclude that the cumulative effects from factors discussed in Factors A, C, and E, combined with the inadequacy of existing regulatory mechanisms discussed under Factor D, are a threat to the Oregon spotted frog, and these threats are significantly affecting populations throughout the entire range of the species. Moreover, these threats are expected to continue into the future.

TABLE 2—THREATS OPERATING WITHIN EACH SUB-BASIN *

Sub-basin	Factor A	Factor C	Factor E
Lower Fraser River	Wetland loss; hydrologic changes; development; grazing, reed canarygrass; water quality.	Introduced warmwater fish; bullfrogs.	Small population size; breeding locations disconnected; contaminants; cumulative effects of other threats; climate change.
Lower Chilliwack River	Grazing; reed canarygrass; water quality	Introduced warmwater fish	Small population size; breeding locations disconnected; contaminants; cumulative effects of other threats; climate change.
South Fork Nooksack	Grazing; reed canarygrass; shrub encroachment/planting; loss of beavers; water quality.	Introduced coldwater fish	Small population size; cumulative effects of other threats; contaminants; climate change.
Samish River	Wetland loss; grazing; reed canarygrass; shrub encroachment/planting; water quality.	Introduced warmwater fish; introduced coldwater fish.	Breeding locations disconnected; contaminants; cumulative effects of other threats; climate change.
Black River	Wetland loss; reed canarygrass; shrub encroachment/planting; development; loss of beaver; water quality.	Introduced warmwater fish; introduced coldwater fish; bullfrogs.	Small population size; breeding locations disconnected; contaminants; cumulative effects of other threats; climate change.
White Salmon River	Wetland loss; reed canarygrass; water quality	Introduced coldwater fish	Cumulative effects of other threats; climate change.
Middle Klickitat River	Wetland loss; hydrologic changes; loss of beaver; development; grazing; reed canarygrass; shrub encroachment; water management.	Introduced warmwater fish; introduced coldwater fish; bullfrogs.	Cumulative effects of other threats; climate change.
Lower Deschutes	Shrub encroachment		Small population size; single occupied site within sub-basin; isolated from frogs in other sub-basins; cumulative effects of other threats; climate change.
Upper Deschutes	Wetland loss; reed canarygrass; shrub encroachment; hydrological changes (water management).	Introduced warmwater fish; introduced coldwater fish, bullfrogs.	Breeding locations disconnected; cumulative effects of other threats; climate change.
Little Deschutes	Wetland loss; hydrological changes (water management); development; grazing; reed canarygrass; shrub encroachment.	Introduced coldwater fish; bullfrogs.	Breeding locations disconnected; cumulative effects of other threats; climate change.
McKenzie	Shrub encroachment	Introduced coldwater fish	Only two breeding locations in sub-basin, which are disconnected; cumulative effects of other threats; climate change.
Middle Fork Willamette	Shrub encroachment	Introduced coldwater fish	Single occupied site in sub-basin; disconnected from other sub-basins; cumulative effects of other threats; climate change.
Williamson	Development; grazing; shrub encroachment; loss of beaver.	Introduced warmwater fish; introduced coldwater fish.	Small population size; breeding locations disconnected; cumulative effects of other threats; climate change.
Upper Klamath Lake	Water management; development; shrub and reed canarygrass encroachment; grazing.	Introduced warmwater fish; introduced coldwater fish; bullfrogs.	Small population size; breeding locations disconnected; cumulative effects of other threats; climate change.
Upper Klamath	Wetland loss; water management; development; grazing; shrub encroachment; loss of beaver.	Introduced warmwater fish; introduced coldwater fish.	Small population size; breeding locations disconnected; cumulative effects of other threats; climate change.

* Existing regulatory mechanisms (Factor D) have been insufficient to significantly reduce or remove the threats to the Oregon spotted frog. Factors A, C, and E are operative within some to several occupied sites within each sub-basin, to differing degrees. To clarify, these threats apply to locations within each sub-basin, and do not necessarily apply to the sub-basin in its entirety. Detailed information is available in a rangewide threats synthesis document, which is available from Washington Fish and Wildlife Office (see **ADDRESSES**).

Summary of Comments and Recommendations

In the proposed rule published on August 29, 2013 (78 FR 53582), we requested that all interested parties submit written comments on the proposal by October 28, 2013. On September 26, 2013 (78 FR 59334), we extended the comment period to November 12, 2013. 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 general public comment were published in The Olympian, the Yakima Herald Republic, The Goldendale Sentinel, The Bulletin, and the Mail Tribune. As also announced in that September 26, 2013, document, we held a public hearing in Lacey, Washington, on October 21, 2013. On September 18, 2013, we held an Oregon spotted frog workshop in Klamath Falls, Oregon, to provide the public with information on the species biology and distribution, and the listing and critical habitat rules. Public meetings were held in Sunriver and La Pine, Oregon, on December 3 and 4, 2013, respectively.

During the public comment period for the proposed rule, we received nearly 80 comment letters addressing the proposed listing for the Oregon spotted frog. During the October 21, 2013, public hearing, five individuals or organizations made comments on the proposed rule. All substantive information provided during the comment period has either been incorporated directly into this final determination or is addressed below.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from nine knowledgeable individuals with scientific expertise that included familiarity with the Oregon spotted frog and its habitats, biological needs, and threats. We received responses from eight of the peer reviewers.

We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the listing of the Oregon spotted frog. All peer reviewers felt that the proposed rule was a thorough description of the status of the Oregon spotted frog and commented that they considered the proposed rule well researched and well written. Our requests for peer review are limited to a request for review of the merits of the scientific information in our documents; if peer reviewers have volunteered their personal opinions on matters not directly relevant to the science of our status assessment, we do not respond to those comments here. The peer reviewers provided a number of recommended technical corrections or edits to the proposed listing of the Oregon spotted frog. We evaluated and incorporated this information into this final rule when and where appropriate to clarify this final listing rule. Eight peer reviewers provided substantive comments on the proposed listing of the Oregon spotted frog, which we address below.

Comments From Peer Reviewers

(1) Comment: One peer reviewer thought the Service indicated that the reintroduction site at Joint Base Lewis McChord lacked suitable habitat and asked that we identify what features of the Oregon spotted frog's habitat were missing.

Our response: Our discussion concerning the lack of suitable habitat is in reference to the Nisqually River sub-basin where a number of historically occupied locations have been affected by development; we were not referring to the specific location of the reintroductions at Joint Base Lewis-McChord military reservation, which may contain suitable habitat.

(2) Comment: One peer reviewer questioned our use of the sub-basin scale regarding the number of extant sites, rather than using a smaller scale, such as a 5th-field or 6th-field watershed. The reviewer was concerned that this may lead the reader to presume that it is the Service's implicit intention to retain occupancy at the scale of 4th fields.

Our response: We used the sub-basin scale to broadly summarize the distribution of the Oregon spotted frog. In Table 1, we have listed the historical and extant distribution of Oregon spotted frog throughout the range by sub-basin (4th field) and watershed (5th field), and in the *Population Estimates and Status* section we discussed the number of breeding locations found within each sub-basin. Additionally, when we constructed our threats matrix (Threats Synthesis Rangewide Analysis), we conducted our analysis at the 5th- and 6th-field scales and included a description of all known locations. We then summarized this information at the sub-basin scale in order to evaluate threats across the distribution of the species. The threats matrix was provided to peer reviewers and made available on both *http://www.regulations.gov* and the WFWO Web site.

(3) Comment: One peer reviewer questioned the exclusive use of the 2012 population estimates for Washington and suggested we include 2013 population estimates along with population estimates for other years for each of the monitored populations in order to demonstrate the annual variability in Oregon spotted frog estimates.

Our response: Annual variation in survey effort, area coverage, and timing at individual sites have led us to be cautious in comparing population estimates across years, and we have not relied upon them to determine trends, except where there was enough consistency between data sets to do so. The minimum population estimates were provided to give a general understanding of the number of frogs currently known in each sub-basin and the disparity between the 15 occupied sub-basins. The timing of the proposed rule and availability of data prohibited us from including 2013 survey data. We have updated the sub-basin information to include 2013 data where the new information expanded the distribution or significantly changed the minimum population estimate. In most cases, 2013 survey efforts were not as extensive as those conducted in 2011 and 2012, and, in some cases, the Service did not receive 2013 survey data. We have evaluated the 2013 data in our possession and determined that a change in status from the proposed rule is not warranted in any of the occupied sub-basins.

(4) Comment: Two peer reviewers questioned some aspects of our analysis of livestock grazing as a threat. Specifically, one peer reviewer asked us to categorize the effects of cattle grazing on Oregon spotted frog habitat into mesic and arid environments, breeding and non-breeding habitats, season, and cattle densities. In addition, this peer reviewer questioned our use of the term livestock, instead of cattle. Another peer reviewer stated that the personal opinions and biases of individual researchers contribute to seemingly contradictory conclusions about the compatibility of grazing with the well-being of the Oregon spotted frog and that speculation may be given more weight than deserved. In addition, this peer reviewer stated that some of the negative effects of grazing to Oregon spotted frog and its habitat that we discussed are not well supported by research or casual observation. These negative effects include the direct effect of mortality to adult frogs and eggs from trampling and numerous indirect effects to habitat, such as water contamination from urine and feces, increases in

temperature and sediment production, alterations to stream morphology, effects on prey organisms, and changes to water quality.

Our response: We agree that the issue of grazing is controversial and the impacts have been posited to be both positive and negative. However, grazing and the potential impacts are not consistent across the range of the species. The weight of the evidence for other amphibian species and the negative impacts of grazing in riparian areas are well documented (see ''Livestock Grazing'' section under *Factor A* discussion). Livestock as a whole break down banks and influence water quality if allowed unfettered access to waterbodies, and if livestock are in shallow water areas being used by frogs, trampling can occur. We agree that the term livestock can mean various animals domesticated so as to live and breed in a tame condition. We used the term livestock because at present we have information with specific regard to cattle and horses as grazers within Oregon spotted frog habitats.

There is little indication that categorizing the effects of grazing on Oregon spotted frogs in mesic versus arid environments would produce significantly different results. The purpose and intent of the grazing is what drives the effects of grazing. For example, if grazing is employed alongside other habitat management techniques as a method to maintain open water areas with short vegetation that is suitable for egg-laying where egg-laying habitat is a limiting factor, then some water quality degradation, trampling, and bank breakdown may be acceptable. However, this should not be taken to imply that there are no negative consequences associated with grazing as a habitat management technique. In cases where the primary objective of grazing is cattle production, the methods used may be different than those techniques employed to maintain or enhance Oregon spotted frog habitat. The goals, methods, and impacts to Oregon spotted frogs vary on a site-by-site basis. Our analysis considered both the possible positive and negative impacts of grazing but our final conclusion is that grazing presents a threat within the 10 occupied sub-basins where it currently occurs.

(5) Comment: One peer reviewer commented that our conclusion regarding malformations related to *Planorbella* snails was not adequately supported by the available data, stating that while trematode-caused malformations in frogs have been found to result in higher mortality rates than non-infected frogs, causing a negative effect at the individual level, effects at the population level are poorly understood.

Our response: We agree that the effects of these parasite-induced malformations on amphibians, including Oregon spotted frogs, are clear at the individual scale, but population-level effects remain largely uninvestigated. However, the viability of populations of pond-breeding amphibians is most vulnerable to losses of juveniles and adults when compared to losses of other life-history stages (Biek *et al.* 2002, p. 731). As these parasite-induced malformations primarily impact the survival of juveniles, it is logical to infer that where these parasites co-occur with Oregon spotted frogs and infect juveniles, the viability of Oregon spotted frog populations at those locations is likely to be negatively affected. We have amended our text to explain this conclusion. However, as indicated in Summary of Factors Affecting the Species, we have no information indicating that population declines in Oregon spotted frogs are occurring as a result of trematode-caused malformations. Disease continues to be a concern, but more information is needed to determine the severity of impact that diseases may have on Oregon spotted frogs. Therefore, under Factor C, we concluded that the best scientific information indicates that disease is not a threat to the Oregon spotted frog.

(6) Comment: One peer reviewer commented that our statements regarding water quality are using standards applied for human consumption and may not apply to the suitability of a waterbody to provide quality habitat for the Oregon spotted frog. He agreed with our statement that many Oregon streams do not meet the Oregon Department of Environmental Quality's water quality standards and believes this situation can be interpreted in at least two ways: That water quality is threatening frog populations in many Oregon streams, or that Oregon spotted frogs are capable of surviving and may in fact favor water quality conditions perceived to be poor by human standards.

Our response: We agree that not all water quality parameters are equal and the standards applied for humans may or may not be detrimental to Oregon spotted frogs. However, many of the parameters that we identified in association with water quality, such as pH and dissolved oxygen, are applicable, as is temperature when it results in algal blooms and low oxygen levels. Reduced water quality is documented in a number of occupied sub-basins (see *Factor E* discussion), and where this overlap occurs we consider poor water quality and contaminants to be threats to the Oregon spotted frog.

(7) Comment: One peer reviewer indicated the Oregon spotted frog's sensitivity to nitrate and nitrite, as presented by Marco *et al.* (1999), sounds alarming and recommended we revise the text. The peer reviewer also commented that the median lethal concentrations of nitrate and nitrite determined by Marco *et al.* (1999) was 1,000-fold the levels he observed in Oregon spotted frog breeding sites from grazing by cows at a dairy farm in Washington.

Our response: The maximum recommended level for nitrates in drinking water or for water containing warm-water fishes, as set by the EPA, exceeds the median lethal concentration for Oregon spotted frog larvae in laboratory studies, as documented by Marco *et al.* (1999, p. 2838), which was less than 10 mg/L. It is possible that waterways that do not exceed the drinking water quality standard could negatively impact Oregon spotted frogs; however, more field-based studies are needed to evaluate these impacts. Grazing is only one source of nitrates and nitrites; the EPA Web site lists the major sources of nitrates in drinking water to be runoff from fertilizer use, leaking from septic tanks and sewage, and erosion of natural deposits. Most currently known occupied sites for Oregon spotted frog are located in areas where residential septic tanks are used and farming practices include fertilizer application and grazing. We have revised the text in the water quality section to acknowledge the ''maximum'' levels as being toxic to amphibians and provided the maximum limits as set by EPA for human drinking water.

(8) Comment: One peer reviewer indicated our information regarding the number of breeding locations below the Wickiup Reservoir was inaccurate; we indicated there were four breeding areas, but the peer reviewer stated there were at least six.

Our response: In riverine wetlands along the Deschutes River below Wickiup Dam there are at least five known breeding locations, including a new location in La Pine State Park found in 2013. Dilman Meadow is within the Upper Deschutes River sub-basin but not along the Deschutes River below Wickiup Dam. The Crosswater population is included within the Little Deschutes River sub-basin, at the confluence of the Deschutes River. Language regarding the number and

distribution of the known Oregon spotted frogs in the Upper Deschutes River sub-basin has been revised.

(9) Comment: One peer reviewer stated that while he agreed that most Oregon spotted frog populations are relatively small, isolated, and vulnerable to factors that may cause population extirpation, he did not believe that the listing proposal adequately supported climate change or contaminants as being significant threats.

Our response: In our proposed rule, we concluded that because Oregon spotted frogs occupy habitats at a wide range of elevations, and all of the occupied sub-basins are likely to experience precipitation regime shift, the Oregon spotted frog's response to climate change is likely to vary across the range and the population-level impacts are uncertain. We currently do not have the data to determine whether the species will be significantly impacted by climate change, and this final rule reflects that position. We reviewed our analysis in the proposed rule pertaining to threats associated with water quality and have revised our conclusion about the extent of this threat. Reduced water quality is documented in a number of occupied sub-basins, and where this overlap occurs we consider poor water quality and contaminants to be threats to the Oregon spotted frog.

(10) Comment: One peer reviewer indicated that we should have included the potential threat from manmade barriers to seasonal movements by Oregon spotted frogs because these barriers may prevent frog movement to and from breeding sites or other habitats.

Our response: We agree with the peer reviewer that these manmade barriers could pose a threat to local populations. In Washington, impassable culverts have been identified as an issue in relation to migration of salmon species to or from spawning habitat. Among the culverts identified by Washington Department of Transportation (WSDOT) in relation to a lawsuit involving salmon migration, only four come within 500 ft (153 m) of areas identified as occupied by the Oregon spotted frog. Two of these occur in the Samish River sub-basin and two in the South Fork Nooksack River sub-basin. All four of these are on tributaries that are not known to be used by Oregon spotted frogs and that are not known to occur between potential breeding habitat and summer/dry season habitat. Therefore, it does not appear that the culverts identified under this process pose a threat to Oregon spotted frogs. However, outside of salmon migration areas in Washington and throughout Oregon, we do not have the information to evaluate the number and distribution of manmade barriers; thus at this time, we are unable to evaluate the severity of this threat. We have added text to the ''Hydrological Changes'' section under the *Factor A* discussion in this rule to reflect the potential of manmade barriers to hinder frog movement.

(11) Comment: One peer reviewer pointed out that our statement regarding the potential for hydrologic connectivity and movement between populations in the Klamath Lake populations does not take into consideration the potential for Oregon spotted frogs to move during flood events, through the extensive ditch system within the Wood River Valley, or between the west side and east side breeding complexes. In addition, the peer reviewer pointed out that while the sample size was small, Robertson's and Funk's (2012) reported evidence of gene flow between the Wood River and Fourmile Creek indicates that there is movement between populations on the west and east sides of the Wood River Valley.

Our response: While there is evidence of some genetic exchange between the west (Fourmile Creek) and east (Wood River) sides of Upper Klamath Lake, Robertson and Funk (2012, p. 5) indicate the sampling sites within the two clusters (H and I) are geographically isolated, indicating limited mixing among sites. Genetic exchange is extremely low beyond 6 mi (10 km) (Blouin *et al.* 2010, pp. 2186, 2188), and the closest distance between currently known breeding areas in Fourmile Creek and Wood River is greater than 4 mi. Movement by Oregon spotted frogs during high water events would not constitute a true hydrologic connection that enables regular or semi-regular dispersal across the Upper Klamath Lake. High water events are unlikely to frequently connect these areas due to roads and dikes that separate these two areas. Additionally, the intersecting area is mostly comprised of ranch land and water typically does not enter the area due to manipulation of water levels. Therefore, we continue to consider the sites in the Upper Klamath Lake sub-basin to be isolated.

(12) Comment: One peer reviewer indicated the 2012 egg mass counts at Maria Slough in British Columbia increased over those conducted in previous years, suggesting the apparent decline in the mid-2000s may have been attributable to a population cycle and/or the result of excessive flooding in some years that reduced suitable breeding sites in those years. The reviewer recommended we revise the status from ''declining'' to ''likely stable'' and suggested that the Maria Slough population is probably exhibiting typical high and low population cycles often seen in amphibian populations.

Our response: While we agree that amphibian populations may exhibit typical high and low cycles, which can be attributed to a wide variety of factors, such as extreme flooding or low-water events that limit egg-laying locations, the Oregon spotted frog population at Maria Slough has been supplemented over many years with frogs through the captive rearing program and these frogs were expected to mature to breeding age in 2010–2011 (COSEWIC 2011, p. 32). This supplementation may account for the increase in egg mass numbers in 2012. We have determined that the recent increases in egg mass counts do not warrant a change in population status to that of ''stable'' given an estimated 28 percent likelihood of Oregon spotted frogs inhabiting the site by 2050 (COSEWIC 2011, p. 32).

(13) Comment: One peer reviewer cautioned that inference drawn from many Oregon spotted frog life-history studies should not be extrapolated globally due to the tendency for these studies to be site-specific and not representative of site-to-site variation.

Our response: We agree that caution should be exercised in using site-specific data; to address this concern the information presented in the life history section describes the variation across the range (latitude and elevation), including British Columbia south to the Klamath Basin. Many of the references used in the *Life History* section of this rule represent syntheses of information, such as McAllister and Leonard 1997, Leonard *et al.* 1993, and Hayes 1994. Within the Summary of Factors Affecting the Species section, we used the best available information. In many cases the response by frogs to a stressor is not widely studied, and the results must be extrapolated across the range. While stressors will vary across the range of the species, it is reasonable to assume that the response will not; therefore we have applied our best professional judgment where it has been necessary to bridge the gap.

(14) Comment: One peer reviewer suggested we acknowledge uncertainty around the egg mass counts representing a count of adults. He provided one anecdotal observation of a female caught in a spawned out condition that was followed and recaptured several weeks later and was described on the capture form as gravid and appearing to be ready to lay another clutch.

Our response: Phillipsen *et al.* (2009, p. 7) found that Oregon spotted frogs in their study area conformed to the assumption that a female lays only one egg mass per season. However, we have revised the text to include the additional uncertainty regarding the number of clutches per female per year.

(15) Comment: One peer reviewer commented that we had not made it clear how the assumed loss of historical range (up to 90 percent of the species' former range) was used in our listing determination and believed that multiple references to the estimated loss of the historical range may mislead the reader by implying that the range loss itself constitutes a threat.

Our response: The estimate of historical range loss is referenced in several places in this rule and is presented to explain to the reader the extent of the loss of the species across its historical range. Additionally, our evaluation of the historical threats to the Oregon spotted frog informs our analysis of the species' response to current or future threats as summarized under Summary of Factors Affecting the Species. In the Determination section, we synthesize our evaluation of past, present, and future threats to the Oregon spotted frog in order to determine whether the species warrants listing based on current and future threats.

(16) Comment: One peer reviewer asked whether recreation should be considered a threat and gave examples of having observed indiscriminate amphibian egg mass collection and random shooting of frogs by members of the public.

Our response: In Washington, only one area (Trout Lake Creek) experiences recreational use due to nearby Federal and private campgrounds. Most Federal and State lands within currently known Oregon spotted frog areas have limited access. Most other occupied lands are privately owned. Oregon spotted frogs are a cryptic species, staying near and in the water and diving under vegetation to take cover when disturbed. Therefore, they are seen less often than most species, which reduces the likelihood for collection or killing of adults, though their egg masses may be vulnerable where broad public access occurs in conjunction with breeding sites. Recreation has not been identified as a threat to the frog in the Deschutes Basin; although Oregon spotted frogs occur within lakes and rivers that receive recreational use on National Forests in this basin, there is limited access to the marshes inhabited by the frog. In the Klamath Basin area of Oregon, recreation is not known to be threat. We note the peer reviewer's concerns, but have no other information that would lead us to determine that recreation may be a threat to the species.

Comments From States

Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for [her] failure to adopt regulations consistent with the agency's comments or petition.'' Comments we received from States regarding the proposal to list the Oregon spotted frog are addressed below. We received comments from WDFW, WDNR, WSDOT, WDOE, and Oregon State Department of Transportation related to biological information, threats, and the inadequacy of regulatory mechanisms. The agencies provided a number of recommendations for technical corrections or edits to the proposed listing of the Oregon spotted frog. We have evaluated and incorporated this information where appropriate to clarify this final rule. In instances where the Service may have disagreed with an interpretation of the technical information that was provided, we have responded to the State directly.

(17) Comment: We received requests from several State agencies as well as from public commenters about the development of a rule under section 4(d) of the Act to provide incidental take exemptions for various activities. The activities for which coverage was requested include: Irrigation district activities; grazing; agricultural diversions and drainage; groundwater pumping; agricultural activities; road maintenance; dredging of ditches; vegetation management; development; stormwater management; habitat restoration; research; and monitoring.

Our response: Whenever any species is listed as a threatened species, the Service may develop a rule under section 4(d) of the Act that exempts take under certain conditions. This exemption from take under a 4(d) rule could include provisions that are tailored to the specific conservation needs of the threatened species and may be more or less restrictive than the general prohibitive provisions detailed at 50 CFR 17.31.

We considered the development of a 4(d) rule that would exempt take of Oregon spotted frogs when that take was incidental to implementing State, regional, or local comprehensive Oregon spotted frog conservation programs. We also considered exempting all activities and efforts conducted by individual landowners on non-Federal lands that are consistent with maintaining or advancing the conservation of Oregon spotted frog, but fall outside of a more structured conservation plan. We further considered exemption from take on lands that are managed following technical guidelines that have been determined by the Service to provide a conservation benefit to the Oregon spotted frog, such as the mowing of reed canarygrass. We requested specific information that would provide us a high level of certainty that such a program would lead to the long-term conservation of Oregon spotted frogs (see Consideration of a 4(d) Special Rule in the August 29, 2013, proposed listing rule).

Although we received several requests for activities to include in a 4(d) rule, except as noted below, we did not receive specific information such as technical guidelines or conservation plans that may have allowed us to determine that a 4(d) rule exempting take for those activities would be necessary and advisable to provide a conservation benefit to the Oregon spotted frog. Some of the activities, such as irrigation, grazing, agricultural diversions, groundwater pumping (hydrologic changes), development, and certain vegetation management methods, for which consideration of a 4(d) rule was requested, are primary threats to the continued existence of the species. We did not receive specific information from requesters that would allow us to determine that a 4(d) rule for these activities would provide a conservation benefit to the Oregon spotted frog; therefore, an exception to the prohibition of take of the species due to these activities is not appropriate. For many of these activities, incidental take is more appropriately addressed through the development of a habitat conservation plan (HCP) or, if a Federal nexus exists, through consultation with the Service under section 7 of the Act. Other activities, such as haying and some vegetation management methods (such as mowing of reed canarygrass or installation of barrier cloth), are not anticipated to result in take of the Oregon spotted frog if these activities include appropriate conservation measures and occur when frogs are not known to be present; therefore, consideration of a 4(d) rule exempting incidental take for these activities is not necessary. Additionally, management activities vary greatly across the range of the species, and without specific technical guidelines or conservation plans we are unable to determine the conservation value of these activities to the Oregon spotted frog.

We received technical guidelines pertaining to road maintenance; associated roadside vegetation

management; and ditch, culvert, and stormwater pond maintenance activities in Washington. However, we are aware that because a federal nexus exists for some of these activities, they will be covered, as appropriate, under a future programmatic section 7 consultation. Also, in most cases, the stormwater ponds mentioned are disconnected from permanent water sources, and we are not aware of Oregon spotted frogs using these types of ponds; therefore, no take is expected. Based on the information provided by the WSDOT, there is very little overlap between their activities and Oregon spotted frogs. As described, their activities could be either beneficial or detrimental to Oregon spotted frogs, and these activities would be better addressed through other conservation tools, such as section 7 consultation or HCPs. We will continue to work with the WSDOT and counties to determine the most appropriate coverage for activities that will not be covered under section 7 consultation.

We also received a request for a 4(d) rule from the Oregon Department of Transportation based on their ''Routine Road Maintenance: Water Quality and Habitat Guide Best Management Practices.'' The best management practices (BMPs) found in these guidelines for aquatic species are specific to Pacific salmon and steelhead. Although these BMPs avoid and minimize adverse effects to aquatic systems to the extent practicable, there are no specific criteria to protect amphibians. For example, the BMPs for beaver dam removal would need to be modified because Oregon spotted frogs can be dependent on beaver activity to create and maintain suitable habitat. We would like to work with the Oregon Department of Transportation to incorporate BMPs that will avoid and minimize impacts to the Oregon spotted frog.

The Deschutes County Roads Department also submitted comments requesting a 4(d) rule for road maintenance and operations, including BMPs for facilities within or near riparian areas. We did not receive specific information on the County's BMPs that would allow us to determine that a 4(d) rule for these activities would provide a conservation benefit to Oregon spotted frog. Therefore, we will continue to work with the Deschutes County Road Department to evaluate these activities and determine the most appropriate tool for coverage under the Act.

We also received a comment from the Deschutes Basin Board of Control requesting a 4(d) rule; we address their comments later, under *Comment (50).*

Based on the information above, we have not proposed a rule under section 4(d) of the Act for the Oregon spotted frog, and the general provisions at 50 CFR 17.31 will apply. Additionally, the normal take provisions provided by section 17.31(b) of the Act to State conservation agencies operating a conservation program pursuant to the terms of a cooperative agreement with the Service in accordance with section 6(c) of the Act will apply.

We may continue to consider developing a proposed 4(d) rule after this listing is finalized if we were to receive appropriate specific information that would provide us with a high level of certainty that such activities would lead to the long-term conservation of Oregon spotted frogs.

(18) Comment: WDFW asserted that our statement indicating that there has been little survey effort in California since 1996 is incorrect. The commenter indicated that the USGS out of Point Reyes and the USFS group out of Humboldt State University have done extensive surveys in northeastern California, including a number which were conducted after 1996, and some of which overlap the historic range of the Oregon spotted frog.

Our response: In response to this comment, we contacted staff at Humboldt State University and USGS at Point Reyes. We confirm that surveys have been completed in northeastern California, but neither group encountered Oregon spotted frogs during their survey work. However, extensive surveys have not been conducted, and, therefore, we cannot confirm that Oregon spotted frogs are extirpated in California.

(19) Comment: WDFW suggested that more emphasis needed to be placed on the benefits that moderate controlled grazing can have on Oregon spotted frog habitat, stating that grazing is most likely to be a benefit and could be employed as an important tool across western Washington and British Columbia, Canada, where reed canarygrass achieves problematic densities.

Our response: While we examined both the potential positive and negative effects of livestock grazing, we concluded that grazing is not uniformly beneficial across the range of the Oregon spotted frog. Please see our response to *Comment (4).*

(20) Comment: WDOE suggested that text in the proposed rule appears to confuse the Sumas River in Whatcom County, Washington, with the Chilliwack River in British Columbia, Canada. The commenter asserted that in one part of the rule the Sumas River is described as a tributary to the Lower Chilliwack River watershed, which the commenter believed to be correct, but pointed out that elsewhere in the rule the Sumas River was used interchangeably with the Chilliwack River and/or the Lower Chilliwack River, which the commenter felt was incorrect.

Our response: The confusion arises from the multiple geographic scales used in this rule. The section entitled ''*Current Range/Distribution*'' summarized data at the 4th field sub-basin scale, except for Washington, where Oregon spotted frogs are currently distributed in only one 5th-field watershed within the six occupied sub-basins. The Sumas River is a tributary to the Lower Chilliwack River watershed (5th field) and to the Fraser River sub-basin (4th field). Because we are considering the species across its range, we attempted to use a consistent naming convention across the range. We have made changes to the text of this rule to more clearly identify the Sumas River as tributary to the Lower Chilliwack River watershed and the Fraser River sub-basin.

(21) Comment: WDOE indicated that our statement under Factor D, Local Laws and Regulations, regarding shoreline setbacks and impervious surfaces in Whatcom County was incorrect.

Our response: We referred to the Whatcom County SMP, Table 23.90.13.C, which provides the setbacks for a variety of activities. The setbacks may be as little as 5 ft; however, in the areas where Oregon spotted frogs are known to occur in the county, the land designations are primarily rural, resource, conservancy, or natural, and the setbacks in these areas begin at 15 ft (Whatcom County SMP 2008, pp. 96–99). The impervious surface allowance of 10 percent is also included in this table.

(22) Comment: WDNR stated that the proposed listing of the Oregon spotted frog presents a potential conflict between the long-term Washington State Forest Practices Rules and their associated HCP, citing a misalignment between management strategies for wetlands and riparian areas and the habitat maintenance and enhancement needs for the Oregon spotted frog. Because the Oregon spotted frog is not a covered species under the Forest Practices HCP and the proposed listing decision does not draw a specific determination regarding the potential for incidental take of the species while conducting forest management activities covered by the Forest Practices HCP, the regulating State agency expressed its

desire to avoid a circumstance where actions approved to benefit one set of listed species may potentially adversely impact another listed species.

Our response: Oregon spotted frog, as a species, is not generally dependent on a forested landscape; therefore there is a lower likelihood that Oregon spotted frogs or their habitat will be negatively affected by forest management activities. That said, Oregon spotted frogs may occur in areas delineated as forested wetlands (e.g., along Trout Lake Creek) or downstream from forest management activities, and management agencies should be aware of the activities that may negatively impact them. An example of such activity may include upslope management activities that alter the hydrology of streams, springs, or wetlands upon which Oregon spotted frogs depend. Activities that are currently allowed under the Forest Practices HCP may impact Oregon spotted frogs or their habitat. Conversely, disallowing management actions that could improve habitat for Oregon spotted frogs may be detrimental. For example, a lack of options to manage trees and/or shrubs that encroach into the wetlands may reduce the availability of suitable egg-laying habitat. We wish to highlight that some management of riparian areas under the Forest Practices HCP may or may not result in incidental take of Oregon spotted frogs, depending on the timing. For example, incidental take would not be anticipated for tree or shrub removal conducted during the dry season. We also note that areas of concern are limited to a very small subset of lands included or covered under the Forest Practices HCP. If there is a process for landowners to obtain a variance from WDNR in order to re-establish or enhance Oregon spotted frog habitat, the Service recommends that WDNR make that process available to willing landowners. Otherwise, the Service recommends WDNR consider its options for obtaining incidental take coverage for its Forest Practice Permit process.

Public Comments

(23) Comment: One commenter expressed concern about the availability of unpublished reports in the development of the rule.

Our response: The Service receives and uses information on the biology, ecology, distribution, abundance, status, and trends of species from a wide variety of sources as part of our responsibility to implement the Act. To assure the quality of the biological, ecological, and other information used by the Service in our implementation of the Act, it is the policy of the Service (59 FR 34271; July 1, 1994) to require biologists to evaluate all scientific and other information that will be used to support listing actions to ensure that information used is reliable, credible, and represents the best scientific and commercial data available. Supporting documentation we used in preparing the proposed rule was available for public inspection on *http://www.regulations.gov,* or at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). Instructions for how to gain access to this information was provided in the August 29, 2013, proposed rule.

(24) Comment: Three commenters expressed concerns that the listing of the Oregon spotted frog would result in changes to mosquito abatement, specifically along the Deschutes River. Two of the commenters believe that managing local water resources to increase the wetlands for the Oregon spotted frog would result in greater numbers of mosquitos and would create a potential public health risk attributable to mosquito-borne encephalitic disease (West Nile virus). Conversely, the third commenter suggested that an extinction of the Oregon spotted frog would increase the potential for insect overpopulation, causing further disruption to the ecosystem and effectively endangering other vulnerable species.

Our response: Mosquito control continues to occur in the Deschutes River area, specifically through application of the biological control agent *Bti.* Studies indicate *Bti* typically does not significantly affect vertebrates (Siegel *et al.* 1987, p. 723; Merritt *et al.* 1989; pp. 408–410; Hanowski *et al.* 1997, entire; Niemi *et al.* 1999, entire; Siegel 2001, entire), including amphibians (multiple studies synthesized in Glare and O'Callaghan 1998, pp. 24, 28). However, indirect effects may occur through reduction of food (insects) (Hanowski *et al.* 1997; Niemi *et al.* 1999, entire; Mercer *et al.* 2005, p. 692). The Service considers these potential indirect effects on the Oregon spotted frog to be negligible, considering the breadth of the Oregon spotted frog's diet and the specificity of the mosquito abatement treatments employed, which primarily affects the larvae of nematoceran (''thread-horned'') flies (the group that includes mosquitos). At this time, we do not anticipate changes to the mosquito control program using *Bti.* Should more or newer information relating specifically to direct or indirect impacts on Oregon spotted frogs become available in the future, the Service will revisit this issue. We have updated the Background section of this rule to include a short discussion of the indirect effects of *Bti* and methoprene on the Oregon spotted frog.

(25) Comment: Two commenters specifically requested close collaboration between the Service and the USFS to ensure timely conservation of the Oregon spotted frog on USFS lands through the revision of already existing projects, and development of standards, guidelines, or management plans.

Our response: The Service coordinates and provides technical assistance to other Federal agencies, including the USFS, on a broad scope of work. The USFS has been proactive in developing site management plans specific to Oregon spotted frogs. Development of forest plans, land use classifications, standards and guidelines, and project planning remains under the purview of the Federal agencies developing such products. If a Federally authorized, funded, or conducted action could affect a listed species or its critical habitat, the responsible Federal agency is then required to enter into consultation with the Service under section 7 of the Act.

(26) Comment: A representative of Modoc County, California, asserted that the Service failed to follow Federal procedures when publishing the proposal to list the Oregon spotted frog. The commenter cited case law determining that the Service is required to give actual notice to local government of its intent to propose a species for listing.

Our response: Under 16 U.S.C. 1533(b)(5)(A)(ii), the Secretary is required to provide actual notice of the proposed regulation to each county in which the species is believed to occur. The Oregon spotted frog is not currently known or believed to occur in either Modoc or Siskiyou Counties; therefore, the Service did not provide notification to these counties.

(27) Comment: One commenter suggested that more attention be given to the extent of the historical range of the Oregon spotted frog and requested an evaluation of the factors likely contributing to the demise of historical populations as a way to become informed about the factors affecting the remaining populations.

Our response: Historical location information is presented in this rule to give the reader perspective on the decline of the species, but a listing analysis is focused on the current distribution and the threats to those populations. In many of the historically

occupied watersheds, the specific location information necessary to determine why Oregon spotted frogs may no longer occur there is unavailable, but can reliably be attributed to human development. The effects of towns, homes, or infrastructure for both human habitation and for agriculture have resulted in the loss of suitable habitat in many of the historically occupied watersheds (for example, the Green River/Lake Washington area in Washington). While we agree that evaluating reasons for loss in historically occupied areas may inform ways to recover the species, the purpose of this evaluation is to determine the threats facing the currently occupied areas.

(28) Comment: Two commenters suggested that unidentified occupied locations may exist for Oregon spotted frog—one because a handful of such sites were documented as recently as 2011 and 2012, the other because of a 1991 document suggesting that additional surveys be conducted on the east side of the Cascade mountain range. In addition, one of the commenters asserted that the Service does not have any credible data regarding Oregon spotted frog populations on private lands adjoining the Conboy Lake NWR.

Our response: The information provided by the Service in the *Current Range/Distribution* section includes the newly identified watersheds and the one reintroduction project. All of these locations are within the historical range (i.e., Puget Trough) of the Oregon spotted frog. While we continue to survey for Oregon spotted frogs in potentially suitable habitat, both in historically and non-historically occupied sub-basins, we cannot speculate as to whether additional populations may occur. In addition, our analysis for listing purposes is based on the status and threats according to the best scientific and commercial data available, including occurrence records.

Subsequent to the 1991 document cited by the commenter, the Oregon spotted frog and Columbia spotted frog were separated into two species (see *Taxonomy* section). In Washington, frogs in the higher elevations near the Cascade crest (both east and west) have been identified as Cascades frogs and in the lower elevations on the east side of the Cascade Crest as Columbia spotted frogs.

While specific survey information does not exist for the private lands adjoining Conboy Lake NWR, the habitat for the Oregon spotted frog does not stop at the boundaries of the refuge. Due to the contiguous nature of the known occupied habitat on the refuge with the habitat on the adjoining private lands, the Service considers the adjoining lands occupied.

(29) Comment: One commenter believed we were inconsistent in our application of the status of the Oregon spotted frog occupied sub-basins. We denoted the Lower Fraser River and Middle Klickitat sub-basins as declining and White Salmon River sub-basin as having no determinable trend because numbers may be rebounding in portions of the Trout Lake area. The commenter believes we should not have concluded that the Middle Klickitat sub-basin was declining because of a similarity to the White Salmon River sub-basin.

Our response: One of the challenges in developing a listing determination for a species that spans multiple States is that scientific and monitoring data are often collected according to the methods preferred by individual researchers, rather than under a standard protocol. Results from some data collection methods can be compared to results from other methods through bridging studies, but some results are not comparable. Where we have no supported way to make comparisons between the results from differing data collection methods, we may not be able to draw conclusions, even if the data look similar. Based on the best data available, evidence indicates there is a declining trend in the Middle Klickitat River sub-basin (Hayes and Hicks 2011, entire; Hallock 2013, p. 36). There is no equivalent evidence available for the Trout Lake area (Hallock 2012) that indicates there are areas within the Middle Klickitat River sub-basin that are rebounding.

(30) Comment: One commenter asserted that the Service estimate for the number of Oregon spotted frogs in Upper Deschutes River and Little Deschutes River sub-basins (3,530 and 6,628 breeding adults, respectively) indicates that each population is of considerable size and viability and highlighted the co-existence of these populations in areas where human activity, such as irrigation water storage, release, diversion, and return, has been prevalent for more than a century.

Our response: The Service does not consider the minimum population estimates in the Upper Deschutes River or Little Deschutes River sub-basins to constitute a population of ''considerable size and viability.'' Franklin (1980) proposed the 50/500 rule, whereby an effective population size (N_e) of 50 is required to prevent unacceptable rates of inbreeding and an N_e of 500 is required to ensure overall genetic variability. Phillipsen *et al.* (2010) compared the adult Oregon spotted frog census population ($N = 428$) from a breeding site near Sunriver, Oregon, to the effective population size ($N_e = 36.7$) with the result of $N_e/N = 0.086$, which fell within the general range of DNA-based estimates for ranid frogs (Phillipsen *et al.* 2010, p. 742). Application of the 50/500 rule provides that an Oregon spotted frog population of greater than 581 breeding adults ($N/N_e = 50/.086$) at the Sunriver breeding site would be required to prevent inbreeding depression and a population of 5,814 breeding adults ($N/N_e = 500/.086$) would be required for a high probability of survival over time. Thus, the minimum population estimate for the Upper Deschutes River sub-basin (3,530) is considerably less than the population needed for only one site, Sunriver (5,814). Therefore, the Service does not consider the current Upper Deschutes River sub-basin's Oregon spotted frog populations to be of adequate size or viability.

Within the Little Deschutes River sub-basin, most of these breeding adults are confined to one area, Big Marsh (5,324 out of 6,628), which is not subject to irrigation district activities. We stated that the trend at Big Marsh appears to be increasing; however, there are no trend data available for the remainder of the sub-basin. Therefore, our determination of an undetermined trend for this sub-basin is accurate.

We agree that the Oregon spotted frogs in the Upper Deschutes River and the Little Deschutes River sub-basins continue to be present within areas of regulated flow associated with irrigation district activities for more than a century. However, without the irrigation district activities, the Oregon spotted frog populations in these sub-basins may be higher in number and better distributed throughout the sub-basin.

(31) Comment: One commenter believes the Service lacks sufficient evidence to establish that the Oregon spotted frog should be listed as a threatened species. The commenter stated that while the Service asserts that data show the frog is disappearing from its historical range, the Service admits that it has not studied population trend data in 13 of 15 sub-basins where the frog is known to occur. Therefore, the commenter claims that the Service has based its proposed listing decision not on substantial evidence of frog decline, but on absence of evidence countering a presumption of decline.

Our response: The Service is not required to show that a species is in decline in order to make a determination that it is threatened. A listing determination is an assessment of the best scientific and commercial

information available regarding the past, present, and future threats to the Oregon spotted frog. While the loss of Oregon spotted frog across the historical distribution and the status of the species within its current range is considered in this assessment, the majority of the assessment is focused on the ongoing and future threats to the species within the currently occupied areas. All of the known Oregon spotted frog occupied sub-basins are currently affected by one or more threats. The immediacy, severity, and scope of these threats are such that the Oregon spotted frog is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.

(32) Comment: One commenter suggested that the proposed listing rule should reassess the role shrubs play in support of beaver re-establishment in each frog sub-basin, since beaver re-establishment will affect both tree encroachment and succession to a tree-dominated community. The commenter noted that if a proper hydrologic regime were restored and maintained, plant communities that provide frog habitat would not succeed to tree-dominated communities.

Our response: We acknowledge that shrubs are an important component for maintaining beaver habitat, but highlight the threat posed by succession to a tree- and/or shrub-dominated community where natural disturbances processes (such as beavers, flooding, and fire) have been or continue to be removed. We are especially concerned about wetland and riparian areas that provide egg-laying habitat that is being actively planted with willows and other riparian shrubs in order to cool water temperatures for salmonids. These actions can degrade or eliminate the shallow open-water conditions necessary for egg laying. We do not advocate for shrub removal throughout areas inhabited by Oregon spotted frogs, especially where they support beavers, but where natural disturbance processes are lacking, succession to shrub- and then tree-dominated communities will continue to pose a threat.

(33) Comment: Two commenters stated that the use of the term ''early seral vegetation'' to represent egg-laying habitat was not supported and does not conform to seral stages of plant communities of riparian areas and wetlands at cited in Kovalchik (1987) and Crowe *et al.* (2004). In addition, the commenters suggested that too much disturbance can force wetland communities toward drier plant associations, which may not favor Oregon spotted frogs.

Our response: Our use of the term ''early seral'' in the proposed listing rule was intended to convey the idea of non-forested areas in early stages of succession. Use of the term ''late seral'' to represent a wetland that is in a ''stable state'' where change in the vegetation is minimal over time is indeed accurate when applied to an intact wetland ecosystem, but may be confusing to those who may equate the term ''late seral'' to ''older forest.'' We note that Oregon spotted frogs do not currently occur in intact stable wetland ecosystems throughout the majority of their range; they occur in systems that have been modified by humans such that the normal disturbance processes have been lost and succession to trees and shrubs is occurring. We agree that classification of the Oregon spotted frog as an early seral-dependent species is not entirely accurate, but note here that the vegetation at egg-laying areas in at least 7 of the 15 occupied sub-basins currently consists of reed canarygrass, not native wetland species. Maintenance of the appropriate vegetation height and water depth necessary for egg laying within these areas is crucial to the persistence of Oregon spotted frogs in these sub-basins. In this rule, we have revised the language in the Background and Summary of Factors Affecting the Species sections, where appropriate, to remove the term ''early seral.'' We highlight that vegetation succession or encroachment into breeding sites for Oregon spotted frog constitute a threat to the species.

(34) Comment: One commenter asserted that the threat from grazing was understated in the proposed rule and suggested a more detailed discussion of the impacts grazing has on frog habitats is needed.

Our response: The best information available on grazing in areas occupied by Oregon spotted frog indicates there are both negative and positive impacts. We believe we evaluated the best available scientific information and provided a balanced summary of both the negative and positive impacts under the ''Livestock Grazing'' section of the *Factor A* discussion and that the full extent of the negative impacts have been evaluated. For further information, please see our response to *Comment (4).*

(35) Comment: Two commenters wrote regarding water management and drastic draw-downs below the Wickiup Reservoir in the Upper Deschutes sub-basin that have resulted in fish kills. These commenters indicated the Oregon Water Resources Department dewaters the Upper Deschutes River annually in the fall and expressed concern at the lack of Service involvement to protect animals under our jurisdiction.

Our response: The Service does not have direct regulatory authority over the water management within the Deschutes River Basin. By law, all surface and ground water in Oregon belongs to the public, and the Oregon Water Resources Department is the public State-level agency charged with administration of the laws governing surface and ground water resources, including the protection of existing water rights. Much of the river water within the Deschutes River was allocated long ago and, as such, is subject to the laws governing water rights. If a Federally authorized, funded, or conducted action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service under section 7 of the Act. However, where there is no Federal nexus, State laws govern water management. With this final rule, however, the Act's prohibitions will apply to all activities that harm Oregon spotted frogs, and we expect to work with landowners to develop habitat conservation plans that address those activities.

(36) Comment: One commenter stated that the proposed rule suggests nonnative predators are transferred via the pumping of groundwater. Another commenter believed the proposed rule did not adequately weight the importance of groundwater resources to the persistence of Oregon spotted frog and felt the proposed rule should have included an assessment of the threats to groundwater, due to the contributions it makes to the maintenance of Oregon spotted frog habitat.

Our response: There is no biological information that suggests nonnative predators are transferred via groundwater pumping, and the proposed rule did not state or intend to imply there was such a threat. The final rule remains consistent with this original position.

The Service agrees that there is need to protect groundwater resources, as many wetland habitats occupied by Oregon spotted frogs are supported by groundwater. Pumping of groundwater can result in lower water levels in groundwater systems, diminished flow of springs, and reduced streamflow (Gannett *et al.* 2007, pp. 59–60, 65), but the extent of groundwater pumping effects to streamflow within Oregon spotted frog sub-basins and its impact on Oregon spotted frogs is currently unclear (Gannett *et al.* 2007, p. 65). In the Upper and Little Deschutes River sub-basins, the analysis of groundwater changes discussed in Gannett *et al.*

(2013) is difficult to correlate directly with impacts to Oregon spotted frog. There is a scarcity of hydrologic gauges in certain parts of the occupied sub-basins, and there are only five well-testing locations upstream of Bend, Oregon, in proximity to areas occupied by Oregon spotted frog. Although the Little Deschutes River sub-basin experienced groundwater level declines since 2000, Gannett *et al.* (2013) stated that wells in the ''La Pine sub-basin south of Bend'' tend to respond to climate cycles, and show no evidence of discernible pumping-related trends due to the distance from large pumping centers. Similarly, the primary increase in groundwater pumping in the upper Klamath Basin has not occurred within Oregon spotted frog occupied sub-basins. The Service has little conclusive information at this time regarding groundwater pumping as a threat to Oregon spotted frogs.

(37) Comment: One commenter asserted that water management activities in the Glenwood Valley (the Middle Klickitat River sub-basin) may be artificially enhancing Oregon spotted frog habitat in that area because the landowners flood a significant portion of the valley to provide frost protection to the reed canarygrass they use for summer livestock forage and/or commercially produce. The commenter suggested that if water were allowed to runoff naturally, the area of available Oregon spotted frog habitat would be much smaller and would dry up sooner.

Our response: As explained in the Background and Summary of Factors Affecting the Species sections, water management in the Glenwood Valley is a complicated issue involving multiple landowners, including both public and private. Retention of water in locations that attract egg-laying behavior may create an ''ecological trap'' by trapping larvae and/or juvenile frogs if water is not retained until they are matured enough to move or if those locations are not hydrologically connected to permanent water via surface water along a gradual slope. These artificially flooded egg-laying areas may be creating population ''sinks'' and facilitating the decline of the population by diverting gravid females from higher quality, natural egg-laying locations. In addition, the current water management drains areas that in a natural setting might hold water throughout the year; whereas, currently, the surviving frogs are restricted to the ditch system, along with their predators, for a majority of the summer and winter. In the absence of additional compelling information, the Service continues to assert that water management is a threat to Oregon spotted frogs in the Middle Klickitat River sub-basin.

(38) Comment: One commenter asked that the Service clarify whether stormwater detention or retention facilities provide Oregon spotted frog habitat, including whether these facilities are beneficial or detrimental to the frog. (Oregon spotted frogs have been found within private storm drainage wetponds within Bend, Oregon.) The commenter further asked whether the State should continue to recommend that stormwater be directed away from frog habitat (as advised in Nordstrom and Miller 1997) if Oregon spotted frogs are shown to benefit from stormwater retention facilities.

Our response: The only known occurrence of Oregon spotted frogs using a stormwater retention pond occurs at the Old Mill within the City of Bend, Oregon. Year-round water is purposefully held within this particular pond because it serves as a ''casting pond'' for learning to fly fish. The Service does not have information to indicate that seasonally wet stormwater ponds are either a benefit or detriment to Oregon spotted frog populations that utilize the Deschutes River within the City of Bend.

In Washington State, Nordstrom and Milner (1997) remains the current accepted management practices guide. It clearly states, ''stormwater runoff from urban developments should not be diverted into spotted frog habitats. Urban runoff often contains heavy metals and other pollutants that may affect frogs.'' Therefore, the information regarding controlling stormwater runoff away from frog habitat and the Washington Priority Habitat and Species Management Recommendations is accurate as presented.

Brand and Snodgrass (2010) concluded anthropogenic wetlands may be important to amphibian conservation in suburban and urban areas, but cautioned about the contaminants in the stormwater ponds. In addition, inferences from this study should be made very judiciously because the amphibian species studied were primarily terrestrial and only used the structures during the breeding season and their ''natural'' locations dried up before metamorphosis, so the structures were not providing for the essential needs of the associated amphibians and were essentially acting as a breeding sink.

The Service would not recommend that these types of facilities be constructed in or near Oregon spotted frog habitat because of the potential for creating ponds that do not remain wetted and could trap frogs or larvae, retain deeper water that attracts bullfrogs, or expose Oregon spotted frogs to contaminants.

(39) Comment: One commenter believed that the Service's discussion of development under Factor A was not well supported and argued that wetlands receive enough protections from Federal, State, and county regulations to be immune from the impacts of development.

Our response: The link between the frog's status and loss of wetlands is documented under both Factor A and Factor D. Ongoing loss of wetlands is predominantly attributable to development, including urban (housing and infrastructure) and agricultural. While some setbacks are required under existing regulations, not all ''wetlands'' are regulated in an equivalent manner, and not all counties or States have equivalent regulations. Additionally, not all Oregon spotted frog habitat is classified as ''wetland'' under county or State regulations, and thus the loss of these habitats are not accounted for under estimates of wetland loss. As discussed in our analysis under *Factor D,* we determined that the existing regulatory mechanisms are not sufficient to reduce or remove threats to Oregon spotted frog habitat, particularly habitat loss and degradation.

(40) Comment: One commenter believed the summary of the disease and predation section appeared to contradict the first paragraph of the section, pointing out that the first paragraph cites documentation that nonnative predaceous species are found in 20 of 24 sites while the summary states that at least one nonnative predaceous species occurs within each of the sub-basins currently occupied by Oregon spotted frogs.

Our response: These findings are discussed at different scales. Hayes *et al.* (1997, p. 5) documented at least one introduced predator in 20 of 24 individual sites surveyed from 1993–1997 in British Columbia, Washington, and Oregon. However, our summary is focused on the presence of nonnative predators at the sub-basin scale, not in individual sites; in other words, each occupied sub-basin has one or more sites with nonnative predators present. Further information on specific sites and sub-basins that are known to have predaceous nonnative species (made available within our Threats Synthesis Rangewide Analysis) is available online at both *http://www.regulations.gov* and the Washington Fish and Wildlife Service Office's Web site *http://www.fws.gov/wafwo/osf.html.*

(41) Comment: One commenter asserted that increases in the population

of sandhill cranes in the Middle Klickitat River area and reports from local residents that indicate river otters have also moved back into the area may also be affecting the size of the Oregon spotted frog population.

Our response: We have no evidence to support or disprove that increasing populations of native species may negatively impact Oregon spotted frog populations in the Middle Klickitat River area. Cranes and otters may be playing a beneficial role for Oregon spotted frogs by preying on bullfrogs. We continue to recommend actions that address the impacts from introduced (nonnative) species, rather than native species.

(42) Comment: One commenter felt that the information provided under Factor C regarding *Bd* is inconsistent with Hayes *et al.* (2009), which posited that *Bd* was a contributor to the observed declines at Conboy Lake NWR and Trout Lake NAP. The commenter goes on to note that the referenced article also posited that the observed declines coupled with the unknown susceptibility of Oregon spotted frogs to *Bd* should be a cause for concern and then stated that this concern is heightened by the fact the Conboy Lake NWR is the only place where Oregon spotted frogs and American bullfrogs have successfully co-existed for over 60 years. The commenter's concern stems from data demonstrating that bullfrogs are known to carry *Bd* asymptomatically (citing Daszak *et al.* 2004; Garner *et al.* 2006); therefore the potential for *Bd* transmission within and among species at Conboy Lake NWR could be high.

Our response: We agree that *Bd* may be a cause for concern; however, there is no direct evidence that the declines in Conboy Lake area are attributable to *Bd,* and recent studies conducted by Padgett-Flohr and Hayes (2011) indicate that Oregon spotted frogs are less susceptible to *Bd* than many other frog species. The lack of co-occurrence with bullfrogs at Trout Lake NAP could potentially explain why that population is able to rebound, while Conboy Lake area does not, but it does not explain the increasing trend in the Sunriver population which has coexisted with bullfrogs for more than 40 years. There are a number of other contributing factors in the Trout Lake NAP that may explain the increasing population, such as significant improvement of the habitat conditions. Additional studies are necessary to determine whether *Bd* is a threat rangewide.

(43) Comment: One commenter requested clarification of which specific Urban Growth Area includes Fish Pond Creek because designation as an Urban Growth Area specifies the allowable permitted density of developments.

Our response: Fish Pond Creek is a tributary that flows directly into Black Lake from the east. The area where the frogs have been found breeding is within the Tumwater Urban Growth Area. Text has been added to the *Factor D* discussion in this rule to clarify this Urban Growth Area.

(44) Comment: Two commenters highlighted that shoreline, riparian, and wetland property owners throughout the PNW are regularly required through Federal, State, and local programs to improve fish habitat as mitigation for development and emphasized the involuntary nature of some of these mitigation programs. The commenters pointed out the apparent contradiction where the Service's proposed listing rule identifies such mitigation programs as having already contributed to the Oregon spotted frog's decline. The commenters stated his or her concern that a ''dueling species'' scenario between fish and frogs will not be resolved by listing the Oregon spotted frog as a threatened species, but will mean that property owners will face competing requirements stemming from the Act and other programs, and will be subject to potential liability on multiple fronts, either for refusing to engage in fish habitat mitigation (to avoid harming frogs), or for engaging in fish habitat mitigation activities that harm frogs. The commenters felt that a property owner's only alternative in such a situation may be to forgo using his or her property altogether and implied that the Service may be liable for a regulatory taking if property use restrictions resulting from enforcement of the Act deprive an owner of economic use.

Our response: We agree that habitat objectives for fish, and salmon species in particular, may in some cases contradict those for Oregon spotted frogs. In many cases, laws and regulations that pertain to retention and restoration of wetland and riverine areas are designed to be beneficial to fish species, resulting in the unintentional elimination or degradation of Oregon spotted frog habitat. In the ''Summary of Existing Regulatory Mechanisms'' under the *Factor D* discussion, we state that additional regulatory flexibility would be desirable for actively maintaining the areas essential for the conservation of the Oregon spotted frog. For example, grazing is an active management technique used to control invasive reed canarygrass, but CAOs in some Washington counties prohibit grazing within the riparian corridor. We also highlight the fact that the areas where these incompatibilities apply are limited in scope to four Oregon spotted frog-occupied sub-basins in Washington, a very small amount of area relative to the range of salmonids.

The Act does not allow the Service to refrain from listing a species in an instance such as this, where one species' habitat needs are different or incompatible with those of another listed species. In theory, two species that co-existed in the past should be able to co-exist in the present and future; however, due to human alteration of the naturally functioning ecosystem, human management of the ecosystem upon which these species depend now needs to accommodate the habitat needs of both species. As such, the incompatibilities and means to balance recovery objectives will be addressed in any future recovery plan for the Oregon spotted frog and are not relevant to a listing decision.

As for the commenters' assertion that limitations on the use of private property might effect a regulatory taking, the Act does not allow such considerations to influence a listing decision. In any event, the provisions of section 10 of the Act, allowing landowners to take listed species in accordance with an approved habitat conservation plan, are generally an effective means of resolving such issues without foreclosing all use of property.

(45) Comment: One commenter felt that our Factor D discussion places too much emphasis on the failures of existing regulatory mechanisms. The regulatory mechanisms are not as problematic as depicted in the text, and the whole section should be revised to better depict the protection provided by existing regulatory mechanisms.

Our response: As discussed in the introductory paragraph to the *Factor D* analysis, we examine whether the existing regulatory mechanisms are inadequate to address the threats to the species. We interpret this to include relevant laws, regulations, or mechanisms that may minimize any of the threats we described in the threat analyses under the other four factors, or otherwise enhance conservation of the species. This section only includes those laws, regulations, or mechanisms that we have found to be inadequate. It does not contain those laws, regulations, or mechanisms that we have found to be adequate or which do not address the specific threats to the species.

(46) Comment: One commenter stated that there is no evidence that water quality in the habitats occupied by Oregon spotted frogs is contaminated and asserts that because there is no evidence that water quality is affecting

the populations in the Conboy Lake area or the Trout Lake NAP, the conclusion that water quality and contamination is a threat to the Oregon spotted frog across its range is not supported.

Our response: We have revised our conclusion about the extent of threats due to water quality. Reduced water quality is documented in a number of occupied sub-basins, and where this overlap occurs we consider poor water quality and contaminants to be threats to the Oregon spotted frog. Various parameters of water quality were identified as issues from British Columbia south to the Klamath Basin (see *Factor E* discussion). Specifically, the WDOE listed a Trout Lake Creek segment within known Oregon spotted frog areas as not meeting standards for fecal coliform, pH, dissolved oxygen, and temperature. We recognize that not all water quality parameters are equal and the standards set for fish may or may not be detrimental to Oregon spotted frogs. However, many of the parameters that we identified in association with water quality, such as pH and dissolved oxygen, are applicable, as is temperature when it is resulting in algal blooms and low oxygen levels (see discussion under the *Life History* section).

(47) Comment: One commenter felt that there was a conflict between the threat analysis conducted under Factor C and the cumulative threat analysis. The commenter requested clarification as to how the Service could cite Blaustein *et al.* (1999), which the commenter interpreted as concluding that Oregon spotted frogs were not affected by UV–B radiation exposure or contaminants, and then determine that UV–B radiation exposure and contaminants could negatively impact Oregon spotted frogs in the cumulative threats analysis.

Our response: Our threat analysis under Factor C did not say that Oregon spotted frogs are not affected by UV–B radiation, only that at present, the extent of population-level impacts from UV–B exposure is unknown. We highlight here that the Blaustein *et al.* 1999 study was conducted on eggs, but more recent work indicates that larvae (tadpoles) are more susceptible than embryos (Bancroft *et al.* 2008) and that UV–B radiation interacts synergistically with other environmental stressors. We also considered climate change as potentially playing a role in increased exposure to UV–B radiation if water depth at egg-laying and rearing locations is reduced. Our threat analysis also did not state that contaminants do not affect Oregon spotted frogs. Although we acknowledged that more ecotoxicology is warranted, the analyses provided a variety of impacts that contaminants can have on the species. Like UV–B radiation exposure, contaminants interact synergistically with other environmental stressors. Therefore, it is appropriate to include UV–B radiation exposure and contaminants in the cumulative effects analysis because of the complex interactions of stressors and the response Oregon spotted frogs may exhibit to varied combinations of these stressors.

(48) Comment: One commenter stated that the Service failed to sufficiently analyze whether the populations of Oregon spotted frogs constitute one or more distinct population segments (DPSs), particularly in the Upper Deschutes and Little Deschutes sub-basins. The commenter asserted that the Service would have a strong basis to find that these populations constitute one or more DPS given the sizable populations in these sub-basins, and, as such, it is premature to list these populations as threatened.

Our response: Congress has instructed the Secretary to exercise authority with regard to DPSs ''* * * sparingly and only when the biological evidence indicates that such action is warranted'' (Senate Report 151, 96th Congress, 1st Session). We evaluated whether any populations of the Oregon spotted frog constituted a DPS prior to our proposed listing rule; however, after conducting our threats analysis we concluded that the Oregon spotted frog is a threatened species across its range. Therefore, because we have determined that the Oregon spotted frog is threatened rangewide, there is no regulatory benefit in designating separate DPSs.

(49) Comment: One commenter noted that impacts from recreational access are not documented in the proposed listing until the section where the list of examples of activities conducted, regulated, or funded by Federal agencies is addressed. The commenter questioned whether or not recreational impacts constitute a real problem. The commenter further questioned whether or not river restoration should be included in this section, as Oregon spotted frogs are not a ''riverine'' species.

Our response: This list of examples of activities was provided to draw the Federal agency's attention to the types of activities that may require conference or consultation under section 7(a) of the Act; however, we are not aware that they are occurring or planned at this time. If they were to occur, recreation management actions, such as development of campgrounds or boat launches adjacent to or in Oregon spotted frog habitat, may result in impacts to the species or its habitat or both. Additionally, river restoration activities also may result in impacts to the species or its habitat or both because Oregon spotted frogs are closely tied to creeks and rivers, such as the Samish and Black Rivers in Washington and the Deschutes River in Oregon.

(50) Comment: The Deschutes Basin Board of Control (DBBC) requested a rule under section 4(d) of the Act that would not prohibit incidental take of Oregon spotted frogs during routine irrigation district activities, such as the storage, release, diversion, and return of water, if those activities are conducted in accordance with State law; and within ranges of storage, release, diversion, and return experienced since 1980, or within limits established in a HCP approved by the Service in accordance with section 10(a)(1)(B) of the Act. The DBBC also requested the 4(d) rule address the maintenance, operation, repair, or modification of existing district facilities if, among other requirements, these activities do not result in the direct physical modification of habitat occupied by the Oregon spotted frog or if these activities are addressed in an HCP. The DBBC requested that we provide another opportunity for public comment on our 4(d) rule determination before issuing a final rule.

Our response: We appreciate the DBBC's desire to consider conservation of Oregon spotted frogs in carrying out their ongoing activities. In our proposed listing rule, we indicated we are considering whether it is necessary and advisable to develop a 4(d) rule that would not prohibit take that is incidental to implementing a State comprehensive Oregon spotted frog conservation program, regional or local Oregon spotted frog conservation programs, and activities or efforts conducted by individual landowners that are outside of a more structured program but are still consistent with maintaining or advancing the conservation of Oregon spotted frog. Further, we indicated that we would consider specific information that would provide us a high level of certainty that a conservation program would lead to the long-term conservation of Oregon spotted frogs (see Consideration of a 4(d) Special Rule in the August 29, 2013, proposed listing rule).

Given the storage, release, and diversion of water in the Upper Deschutes River and the Little Deschutes River were identified in our proposed listing rule as sources of Oregon spotted frog habitat loss or

modification, the information provided by DBBC did not provide the information we needed to evaluate the program's potential conservation benefits to the Oregon spotted frog. However, we have been working with the DBBC, and funding has been provided, to develop a HCP. If the HCP is finalized and permitted by the Service, it will likely authorize incidental take of Oregon spotted frog resulting from routine irrigation district activities, such as those described in their comment letter, while conserving the Oregon spotted frog consistent with the permitting requirements of section 10 of the Act. Such a permit would negate the need for coverage under a 4(d) rule. We encourage the DBBC to continue working with us to develop and finalize the HCP in order to authorize incidental take associated with these activities. Although we are not reopening a public comment period on the proposed listing, as requested by the DBBC, we may continue to consider developing a proposed 4(d) rule after this listing is finalized if we were to receive appropriate specific information that would provide us with a high level of certainty that such activities would lead to the long-term conservation of Oregon spotted frogs.

Summary of Changes From the Proposed Rule

We fully considered comments from the peer reviewers and from the public on the proposed rule to develop this final listing for Oregon spotted frog. This final rule incorporates changes to our proposed listing based on the comments that we received that are discussed above. We expanded our discussion of water quality to acknowledge maximum levels as being toxic to amphibians and provided maximum limits set by the EPA for human drinking water. We also expanded our water quality discussion to include information on the effects of low dissolved oxygen and revised our conclusion concerning the extent of threats due to water quality. We added text to the ''Hydrological Changes'' section in the *Factor A* discussion of this rule to reflect the potential of manmade barriers to hinder frog movement. We added language discussing the effects that soil compaction may have on water holding capacity and revised language in the Background and Summary of Factors Affecting the Species sections, where appropriate, to remove the term ''early seral.'' We have updated the sub-basin information to include 2013 data where the new information expanded the distribution or significantly changed the minimum population estimate. Based on feedback from one of our peer reviewers, language regarding the number and distribution of the known Oregon spotted frogs in the Upper Deschutes River sub-basin has been revised. We have updated the Background section to include a short discussion of the indirect effects of *Bti* and methoprene on Oregon spotted frogs, and we added some text elsewhere to further explain our conclusion about parasite-induced malformations. We revised our discussion of reproduction to include additional uncertainty regarding the number of clutches of eggs a female may produce per year. We also added text to the *Factor D* discussion to clarify the boundaries of the Urban Growth Areas. In addition, we corrected several citations and made editorial corrections in response to comments.

Determination

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.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Oregon spotted frog. Past human actions have destroyed, modified, and curtailed the range and habitat available for the Oregon spotted frog, which is now absent from 76 to 90 percent of its former range. The Oregon spotted frog populations within two of the sub-basins are declining, but the population trend in the other 13 sub-basins is undetermined. However, the Oregon spotted frog is extant in only 15 of 31 sub-basins where it historically occurred. In addition, the majority of remaining populations are isolated both between and within sub-basins, with minimal opportunity for natural recolonization. These isolated populations are, therefore, vulnerable to ongoing threats and extirpation, and threats are known to be ongoing or increasing across the range of the Oregon spotted frog, as summarized below.

Habitat necessary to support all life stages is continuing to be impacted and/or destroyed by human activities that result in the loss of wetlands to land conversions; hydrologic changes resulting from operation of existing water diversions/manipulation structures, new and existing residential and road developments, drought, and removal of beavers; changes in water temperature and vegetation structure resulting from reed canarygrass invasions, plant succession, and restoration plantings; and increased sedimentation, increased water temperatures, reduced water quality, and vegetation changes resulting from the timing, intensity, and location of livestock grazing. Oregon spotted frogs in all currently occupied sub-basins in British Columbia, Washington, and Oregon are subject to one or more of these threats to their habitat. Eleven of the 15 sub-basins are currently experiencing a high to very high level of habitat impacts, and these impacts are expected to continue into the foreseeable future.

Disease continues to be a concern, but our evaluation of the best scientific information available indicates that disease is not currently a threat to Oregon spotted frogs. At least one nonnative predaceous species occurs within each of the sub-basins currently occupied by Oregon spotted frogs. Introduced fish have been documented within each sub-basin; these introduced species prey on tadpoles, negatively affect overwintering habitat, and can significantly threaten Oregon spotted frog populations, especially during droughts. Bullfrogs (and likely green frogs) prey on juvenile and adult Oregon spotted frogs, and bullfrog tadpoles can outcompete or displace Oregon spotted frog tadpoles. In short, nonnative bullfrogs effectively reduce the abundance of all Oregon spotted frog life stages and pose an added threat to a species that has significant negative impacts rangewide from habitat degradation. Nine of the 15 occupied sub-basins are currently experiencing moderate to very high impacts due to predation by introduced species, and these impacts are expected to continue into the foreseeable future.

Lack of essential habitat protection under Federal, State, Provincial, and local laws leaves this species at continued risk of habitat loss and degradation in British Columbia, Washington, and Oregon. In many cases, laws and regulations that pertain to retention and restoration of wetland and riverine areas are a no-management (i.e.,

avoidance) approach, or are designed to be beneficial to fish species (principally salmonids), resulting in the elimination or degradation of Oregon spotted frog early-seral habitat. In other cases, no regulations address threats related to the draining or development of wetlands or hydrologic modifications, which can also eliminate or degrade Oregon spotted frog habitat. Therefore, degradation of habitat is ongoing despite regulatory mechanisms, and these mechanisms have been insufficient to significantly reduce or remove the threats to the Oregon spotted frog.

Many of the Oregon spotted frog breeding locations are small and isolated from other breeding locations. Due to their fidelity to breeding locations and vulnerability to fluctuating water levels, predation, and low overwinter survival, Oregon spotted frogs can experience rapid population turnovers that they may not be able to overcome. Low connectivity among occupied sub-basins and among breeding locations within a sub-basin, in addition to small population sizes, contributes to low genetic diversity within genetic groups and high genetic differentiation among genetic groups. Oregon spotted frogs in every occupied sub-basin are subject to more than one stressor, such as loss or reduced quality of habitat and predation. Therefore, the species may be more susceptible to the synergistic effects of combined threats, which may be exacerbated by climate change. The threat to Oregon spotted frogs from other natural or manmade factors is occurring throughout the entire range of the species, and the population-level impacts are expected to continue into the foreseeable future.

All of the known Oregon spotted frog occupied sub-basins are currently affected by one or more of these threats, which reduce the amount and quality of available breeding, summer, and overwintering habitat. While the risk to an individual site from each of these factors may vary, the cumulative risk of these threats to each site is high. This scenario is reflected in declining and/or small populations, which constitute the majority the Oregon spotted frog's remaining distribution. We find that Oregon spotted frogs are likely to become endangered throughout all or a significant portion of their range within the foreseeable future, based on the immediacy, severity, and scope of the threats described above. However, the best scientific and commercial information does not indicate at the present time that the existing threats are of such a great magnitude that Oregon spotted frogs are in immediate danger of extinction. Threats are not geographically concentrated in any portions of the species' range, and the species is extant and redundant at a number of localities within 13 of 15 sub-basins within British Columbia, Washington, and Oregon. One extant population remains in each of the Lower Deschutes River and Middle Fork Willamette sub-basins in Oregon. Egg mass surveys continue to document reproducing adults in most areas, although in at least two locations within the current range, Oregon spotted frogs may no longer be extant (i.e., the Maintenance Detachment Aldergrove site in British Columbia and the 110th Avenue site at Nisqually NWR in Washington).

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the Oregon spotted frog is likely to become endangered throughout all or a significant portion of its range within the foreseeable future, based on the immediacy, severity, and scope of the threats described above. The best scientific and commercial information does not indicate at the present time that the existing threats are of such a great magnitude that Oregon spotted frogs are in immediate danger of extinction, but we conclude that it is likely to become so in the foreseeable future. Therefore, on the basis of the best available scientific and commercial information, we determine that the Oregon spotted frog meets the definition of threatened in accordance with sections 3(20) and 4(a)(1) of the Act.

Significant Portion of the Range

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' A major part of the analysis of ''significant portion of the range'' requires considering whether the threats to the species are geographically concentrated in any way. If the threats are essentially uniform throughout the species' range, then no portion is likely to warrant further consideration.

The best available data suggest that, under current conditions, Oregon spotted frogs will likely continue to decline toward extinction. Having already determined that the Oregon spotted frog is a threatened species throughout its range, we considered whether threats may be so concentrated in some portion of its range that, if that portion were lost, the entire species would be in danger of extinction. We reviewed the entire supporting record for the status review of this species with respect to the geographic concentrations of threats, and the significance of portions of the range to the conservation of the species. Oregon spotted frogs currently occupy 15 sub-basins that are widely distributed, such that a catastrophic event in one or more of the sub-basins would not extirpate Oregon spotted frogs throughout their range. Based on our five-factor analysis of threats throughout the range of the Oregon spotted frog, we found that threats to the survival of the species occur throughout the species' range and are not significantly concentrated or substantially greater in any particular portion of their range. Therefore, we find that there is no significant portion of the Oregon spotted frog's range that may warrant a different status. Therefore, the species as a whole is not presently in danger of extinction, and does not meet the definition of an endangered species under the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-

sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains listed or may be delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Washington, Oregon, and California will be eligible for Federal funds to implement management actions that promote the protection or recovery of the Oregon spotted frog. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the Oregon spotted frog. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include, but are not limited to, management and any other landscape-altering activities on Federal lands administered by the U.S. Fish and Wildlife Service, USFS, BLM, and Joint Base Lewis McChord; actions funded or carried out by NRCS, USDA Rural Development, USDA Farm Service Agency, and USDA APHIS; issuance of section 404 Clean Water Act permits by the Corps; construction and maintenance of roads or highways by the Federal Highway Administration; construction and maintenance renewable and alternative energy projects and right-of-way corridors under U.S. Department of Energy and Bonneville Power Administration; and activities and infrastructure construction and maintenance associated with water storage and delivery under the purview of Bureau of Reclamation.

Examples of other activities conducted, regulated, or funded by Federal agencies that may affect listed species or their habitat include, but are not limited to:

(1) Vegetation management such as planting, grazing, burning, mechanical treatment, and/or application of pesticides adjacent to or in Oregon spotted frog habitat;

(2) Water manipulation, such as flow management, water diversions, or canal dredging or piping;

(3) Recreation management actions such as development of campgrounds or boat launches adjacent to or in Oregon spotted frog habitat;

(4) River restoration, including channel reconstruction, placement of large woody debris, vegetation planting, reconnecting riverine floodplain, or gravel placement adjacent to or in Oregon spotted frog habitat;

(5) Pond construction; and

(6) Import, export, or trade of the species.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. The prohibitions of section 9(a)(1) of the Act, as applied to threatened wildlife and codified at 50 CFR 17.31, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of

section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of listed species. At this time, we are unable to identify specific activities that would not be considered to result in a violation of section 9 of the Act because the Oregon spotted frog occurs in a variety of habitat conditions across its range and it is likely that site specific conservation measures may be needed for activities that may directly or indirectly affect the species. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Introduction of nonnative species that compete with or prey upon the Oregon spotted frog, such as bullfrogs, green frogs, or warm or cold water fishes to the States of Washington, Oregon, or California;

(2) Modification of the wetted area or removal or destruction of emergent aquatic vegetation in any body of water in which the Oregon spotted frog is known to occur; and

(3) Discharge of chemicals into any waters in which the Oregon spotted frog is known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Under section 4(d) of the Act, the Secretary has discretion to issue such regulations as he deems necessary and advisable to provide for the conservation of threatened species. Our implementing regulations (50 CFR 17.31) for threatened wildlife generally incorporate the prohibitions of section 9 of the Act for endangered wildlife, except when a rule promulgated pursuant to section 4(d) of the Act has been issued with respect to a particular threatened species. In such a case, the general prohibitions in 50 CFR 17.31 would not apply to that species, and instead, the 4(d) rule would define the specific take prohibitions and exceptions that would apply for that particular threatened species, which we consider necessary and advisable to conserve the species. The Secretary also has the discretion to prohibit by regulation with respect to a threatened species any act prohibited by section 9(a)(1) of the Act. Exercising this discretion, which has been delegated to the Service by the Secretary, the Service has developed general prohibitions that are appropriate for most threatened species in 50 CFR 17.31 and exceptions to those prohibitions in 50 CFR 17.32.

We have not proposed to promulgate a rule under section 4(d) of the Act for the Oregon spotted frog, and as a result, all of the section 9 prohibitions, including the ''take'' prohibitions, will apply to the Oregon spotted frog.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations With Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. Oregon spotted frogs are not known to occur on Tribally owned lands. However, we provided information on our proposed and final listing rules to Tribal governments in Oregon and Washington where known Oregon spotted frog occurrences overlap with Tribal interests.

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 Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this package are the staff members of the Washington Fish and Wildlife Office, Oregon Fish and Wildlife Office—Bend Field Office, and Klamath Falls Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding an entry for ''Frog, Oregon spotted'' to the List of Endangered and Threatened Wildlife in alphabetical order under AMPHIBIANS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
AMPHIBIANS							
*	*	*	*	*	*		*
Frog, Oregon spotted.	*Rana pretiosa*	Canada (BC); U.S.A. (WA, OR, CA).	Entire	T	846	NA	NA
*	*	*	*	*	*		*

* * * * *

Dated: July 22, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–20059 Filed 8–28–14; 8:45 am]

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2014–0017; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AZ80

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; youth waterfowl day; and some extended falconry seasons. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits taking of designated species during the 2014–15 season.

DATES: This rule is effective on August 29, 2014.

ADDRESSES: You may inspect comments received on the migratory bird hunting regulations during normal business hours at the Service's office at 5275 Leesburg Pike, Falls Church, Virginia. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's Web site at *http://www.fws.gov/migratorybirds/,* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0017.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2014

On April 30, 2014, we published in the **Federal Register** (79 FR 24512) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2014–15 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the April 30 proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. Subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we omit those items requiring no attention, and remaining numbered items might be discontinuous or appear incomplete.

On June 4, 2014, we published in the **Federal Register** (79 FR 32418) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations. The June 4 supplement also provided detailed information on the 2014–15 regulatory schedule and announced the Service Regulations Committee (SRC) and Flyway Council meetings. On July 31, 2014, we published in the **Federal Register** (79 FR 44580) a third document specifically dealing with the proposed frameworks for early-season regulations.

On July 30–31, 2014, we held open meetings with the Flyway Council Consultants at which the participants reviewed the status of waterfowl and developed recommendations for the 2014–15 regulations for these species. Proposed hunting regulations were discussed for late seasons. We published the proposed frameworks for late-season regulations (primarily hunting seasons that start after October 1 and most waterfowl seasons) in an August 22, 2014, **Federal Register**.

The final rule described here is the sixth in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; youth waterfowl hunting day; and some extended falconry seasons. This final rule is the culmination of the rulemaking process for the migratory game bird early hunting seasons, which started with the April 30 proposed rule. As discussed elsewhere in this document, we supplemented that proposal on June 4 and July 31, and published final early season frameworks in a late August **Federal Register** that provided the season selection criteria from which the States selected these seasons. This final rule sets the migratory game bird early hunting seasons based on that input from the States. We previously addressed all comments pertaining to early season issues in that late August **Federal Register**.

National Environmental Policy Act (NEPA)

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2014–15,'' with its corresponding August 2014 finding of no significant impact. In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the person indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *.'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of

any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy. Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An updated economic analysis was prepared for the 2013–14 season. This analysis was based on data from the newly released 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives were: (1) Issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations identical to the regulations in the 2012–13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. For the 2014–15 season, we have also chosen alternative 3. We also chose alternative 3 for the 2009–10, the 2010–11, the 2011–12, and the 2012–13 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0017.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion at small businesses in 2013. Copies of the Analysis are available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2014–0017.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we are not deferring the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This final rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0010—Mourning Dove Call Count Survey (discontinued 7/29/2014).
- 1018–0019—North American Woodcock Singing Ground Survey (expires 4/30/2015).
- 1018–0023—Migratory Bird Surveys (expires 6/30/2017). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act (16 U.S.C. 703–711), does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule allows hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Thus, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally-recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the April 30 **Federal Register**, we solicited

proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2014–15 migratory bird hunting season. The resulting proposals were contained in a separate August 11, 2014, proposed rule (79 FR 46490). By virtue of these actions, we have consulted with Tribes.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Review of Public Comments

The preliminary proposed rulemaking (April 30 **Federal Register**) opened the public comment period for 2014–15 migratory game bird hunting regulations. We previously addressed all comments pertaining to early season issues in a late August **Federal Register**.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that, when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), these regulations will take effect less than 30 days after publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: August 18, 2014.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742 a–j, Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

Note The following annual hunting regulations provided for by §§ 20.101 through 20.106 and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

■ 2. Section 20.101 is revised to read as follows:

§ 20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK COMMONWEALTH REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS

(a) *Puerto Rico.*

	Season Dates	Limits	
		Bag	Possession
Doves and Pigeons:			
Zenaida, white-winged, and mourning doves (1)	Sept. 6–Nov. 3	20	20
Scaly-naped pigeons	Sept. 6-Nov. 3	5	5
Ducks	Nov. 15–Dec. 15 &	6	12
	Jan. 10–Jan. 26	6	12
Common Moorhens	Nov. 15–Dec. 15 &	6	12
	Jan. 10–Jan. 26	6	12
Common Snipe	Nov. 15–Dec. 15 &	8	16
	Jan. 10–Jan. 26	8	16

(1) Not more than 10 Zenaida and 3 mourning doves in the aggregate.

Restrictions: In Puerto Rico, the season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck,

masked duck, purple gallinule, American coot, Caribbean coot, white-crowned pigeon, and plain pigeon.

Closed Areas: Closed areas are described in the July 31, 2014, **Federal Register** (79 FR 44580).

(b) *Virgin Islands.*

	Season Dates	Limits	
		Bag	Possession
Zenaida doves	Sept. 1–Sept. 30	10	10
Ducks	CLOSED.		

Restrictions: In the Virgin Islands, the seasons are closed for ground or quail doves, pigeons, ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, and purple gallinule.

Closed Areas: Ruth Cay, just south of St. Croix, is closed to the hunting of migratory game birds. All Offshore Cays under jurisdiction of the Virgin Islands Government are closed to the hunting of migratory game birds.

■ 3. Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset. Area descriptions were published in the July 31, 2014, **Federal Register** (79 FR 44580).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS

Area seasons	Dates
North Zone	Sept. 1–Dec. 16
Gulf Coast Zone	Sept. 1–Dec. 16
Southeast Zone	Sept. 16–Dec. 31
Pribilof & Aleutian Islands Zone.	Oct. 8–Jan. 22
Kodiak Zone	Oct. 8–Jan. 22

DAILY BAG AND POSSESSION LIMITS

Area	Ducks (1)	Canada Geese (2)(3)	White Fronted Geese (4)(5)	Light Geese (6)	Brant	Emperor Geese	Snipe	Sandhill Cranes (7)
North Zone	10–30	4–12	4–12	4–12	2–6	Closed	8–24	3–9
Gulf Coast Zone	8–24	4–12	4–12	4–12	2–6	Closed	8–24	2–6
Southeast Zone	7–21	4–12	4–12	4–12	2–6	Closed	8–24	2–6
Pribilof and Aleutian Islands Zone	7–21	4–12	4–12	4–12	2–6	Closed	8–24	2–6
Kodiak Zone	7–21	4–12	4–12	4–12	2–6	Closed	8–24	2–6

(1) The basic duck bag limits may include no more than 1 canvasback daily, and may not include sea ducks. In addition to the basic duck limits, sea duck limits of 10 daily, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks, are allowed. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers. The season for Steller's and spectacled eiders is closed.

(2) In Units 5 and 6, the taking of Canada geese is only permitted from September 28 through December 16. In the Middleton Island portion of Unit 6, the taking of Canada geese is by special permit only. The maximum number of Canada goose permits is 10 for the season. A mandatory goose identification class is required. Hunters must check in and out. The daily bag and possession limit is 1. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters. In Unit 6–B, 6–C, and on Hinchinbrook and Hawkins Islands in Unit 6–D, the possession limit is 2 times the daily bag limit.

(3) In Units 9, 10, 17, and 18, the daily bag limit is 6 Canada geese.

(4) In Units 9, 10, and 17, the daily bag limit is 6 white-fronted geese.

(5) In Unit 18, the daily bag limit is 8 white-fronted geese.

(6) Light geese include snow geese and Ross' geese.

(7) In Unit 17 of the North Zone, the daily bag limit for sandhill cranes is 2 and the possession limit is 6.

FALCONRY: The total combined bag and possession limit for migratory game birds taken with the use of a falcon under a falconry permit is 3 per day, 9 in possession, and may not exceed a more restrictive limit for any species listed in this subsection.

SPECIAL TUNDRA SWAN SEASON: In Units 17, 18, 22, and 23, there will be a tundra swan season from September 1 through October 31 with a season limit of 3 tundra swans per hunter. This season is by registration permit only; hunters will be issued 1 permit allowing the take of up to 3 tundra swans. Hunters will be required to file a harvest report after the season is completed. Up to 500 permits may be issued in Unit 18; 300 permits each in Units 22 and 23; and 200 permits in Unit 17.

■ 4. Section 20.103 is revised to read as follows:

§ 20.103 Seasons, limits, and shooting hours for doves and pigeons.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 31, 2014, **Federal Register** (79 FR 44580).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS

(a) *Doves.*

Note: Unless otherwise noted, the seasons listed below are for mourning and white-winged doves in the aggregate.

		Season dates	Limits	
			Bag	Possession
EASTERN MANAGEMENT UNIT				
Alabama:.				
North Zone	12 noon to sunset	Sept. 6 only	15	15
	1/2 hour before sunrise to sunset	Sept. 7–Nov. 9 &	15	45
		Dec. 7–Dec. 31	15	45
South Zone	12 noon to sunset	Sept. 20 only	15	15
	1/2 hour before sunrise to sunset	Sept. 21–Sept. 28 &	15	45
		Oct. 11–Oct. 26 &	15	45
		Nov. 12–Jan. 15	15	45
Delaware		Sept. 1–Sept. 27 &	15	45
		Oct. 20–Nov. 1 &	15	45
		Nov. 24–Jan. 12	15	45
Florida	12 noon to sunset	Sept. 27–Oct. 27	15	45
	1/2 hour before sunrise to sunset	Nov. 8–Dec. 1 &	15	45
		Dec. 12–Jan. 15	15	45
Georgia	12 noon to sunset	Sept. 6 only	15	15
	1/2 hour before sunrise to sunset	Sept. 7–Sept. 21 &	15	45
		Oct. 11–Nov. 3 &	15	45
		Nov. 27–Jan. 15	15	45
Illinois (1)		Sept. 1–Nov. 14 &	15	45
		Dec. 26–Jan. 9	15	45
Indiana		Sept. 1–Oct. 19 &	15	45
		Nov. 1–Nov. 9 &	15	45
		Dec. 13–Jan. 11	15	45
Kentucky	11 a.m. to sunset	Sept. 1 only	15	15
	1/2 hour before sunrise to sunset	Sept. 2–Oct. 26 &	15	45
		Nov. 27–Dec. 7 &	15	45
		Dec. 20–Jan. 11	15	45
Louisiana				
North Zone	1/2 hour before sunrise to sunset	Sept. 6–Sept. 28 &	15	45
		Oct. 11–Nov. 9 &	15	45
		Dec. 10–Jan. 15	15	45
South Zone	1/2 hour before sunrise to sunset	Sept. 6–Sept. 14 &	15	45
		Oct. 11–Dec. 3 &	15	45
		Dec. 20–Jan. 15	15	45
Maryland	12 noon to sunset	Sept. 1–Oct. 11	15	45
	1/2 hour before sunrise to sunset	Nov. 1–Nov. 28 &	15	45
		Dec. 26–Jan. 15	15	45
Mississippi				
North Zone		Sept. 1–Sept. 21 &	15	45
		Oct. 4–Nov. 9 &	15	45
		Dec. 15–Jan. 15	15	45
South Zone		Sept. 13–Sept. 21 &	15	45
		Oct. 4–Nov. 9 &	15	45
		Dec. 3–Jan. 15	15	45
North Carolina		Sept. 1–Oct. 11 &	15	45
		Nov. 27–Nov. 29 &	15	45
		Dec. 1–Jan. 15	15	45
Ohio		Sept. 1–Nov. 9 &	15	45
		Dec. 13–Jan. 1	15	45
Pennsylvania	12 noon to sunset	Sept. 1–Sept. 25 &	15	45
	1/2 hour before sunrise to sunset	Sept. 26–Nov. 15 &	15	45
		Nov. 22–Nov. 29 &	15	45
		Dec. 27–Jan. 1	15	45
Rhode Island	12 noon to sunset	Sept. 13–Oct. 12	12	36
	1/2 hour before sunrise to sunset	Oct. 18–Nov. 8 &	12	36
		Dec. 17–Jan. 3	12	36
South Carolina	12 noon to sunset	Sept. 1–Sept. 6	15	45
	1/2 hour before sunrise to sunset	Sept. 7–Oct. 11 &	15	45
		Nov. 15–Nov. 29 &	15	45
		Dec. 13–Jan. 15	15	45

		Season dates	Limits	
			Bag	Possession
Tennessee	12 noon to sunset	Sept. 1 only	15	15
	1/2 hour before sunrise to sunset	Sept. 2–Sept. 28 &	15	45
		Oct. 11–Nov. 2 &	15	45
		Nov. 29–Jan. 6	15	45
Virginia	12 noon to sunset	Sept. 1–Sept. 5	15	45
	1/2 hour before sunrise to sunset	Sept. 6–Oct. 31 &	15	45
		Nov. 22–Nov. 30 &	15	45
		Dec. 27–Jan. 15	15	45
West Virginia	12 noon to sunset	Sept. 1 only	15	15
	1/2 hour before sunrise to sunset	Sept. 2–Oct. 18 &	15	45
		Nov. 3–Nov. 22 &	15	45
		Dec. 22–Jan. 10	15	45
Wisconsin		Sept. 1–Nov. 29	15	45
CENTRAL MANAGEMENT UNIT:				
Arkansas		Sept. 6–Oct. 25 &	15	45
		Dec. 20–Jan. 8	15	45
Colorado		Sept. 1–Nov. 9	15	45
Iowa		Sept. 1–Nov. 9	15	30
Kansas		Sept. 1–Oct. 31 &	15	45
		Nov. 1–Nov. 9	15	45
Minnesota		Sept. 1–Nov. 9	15	45
Missouri		Sept. 1–Nov 9	15	45
Montana		Sept. 1–Oct. 30	15	45
Nebraska		Sept. 1–Oct. 30	15	45
New Mexico:				
North Zone		Sept. 1–Nov. 9	15	45
South Zone		Sept. 1–Oct. 13 &	15	45
		Dec. 5–Dec. 31	15	45
North Dakota		Sept. 1–Nov. 9	15	45
Oklahoma		Sept. 1–Oct. 31 &	15	45
		Dec. 20–Dec. 28	15	45
South Dakota		Sept. 1–Nov. 9	15	45
Texas (2):				
North Zone		Sept. 1–Oct. 20 &	15	45
		Dec. 19–Jan. 7	15	45
Central Zone		Sept. 1–Oct. 20 &	15	45
		Dec. 19–Jan. 7	15	45
South Zone	Special Area	Sept. 19–Oct. 20 &	15	45
		Dec. 19–Jan. 21	15	45
	(Special Season)	Sept. 6–Sept. 7 &	15	45
	12 noon to sunset	Sept. 13–Sept. 14	15	45
Remainder of the South Zone		Sept. 19–Oct. 20 &	15	45
		Dec. 19–Jan. 25	15	45
Wyoming		Sept. 1–Nov. 9	15	45
WESTERN MANAGEMENT UNIT:				
Arizona (3)		Sept. 1–Sept. 15 &	15	45
		Nov. 21–Jan. 4	15	45
California (4)		Sept. 1–Sept. 15 &	15	45
		Nov. 8–Dec. 22	15	45
Idaho		Sept. 1–Oct. 30	15	45
Nevada		Sept. 1–Oct. 30	15	45
Oregon		Sept. 1–Oct. 30	15	45
Utah		Sept. 1–Oct. 30	15	45
Washington		Sept. 1–Sept. 30	10	30
OTHER POPULATIONS:				
Hawaii (5)		Nov. 1–Nov. 30 &	10	30
		Dec. 6–Dec. 28 &	10	30
		Jan. 1–Jan. 19	10	30

(1) In *Illinois,* shooting hours are sunrise to sunset.

(2) In *Texas,* the daily bag limit is either 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves with a maximum 70-day season. Possession limits are three times the daily bag limit. During the special season in the Special White-winged Dove Area of the South Zone, the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and 2 may be white-tipped doves. Possession limits are three times the daily bag limit.

(3) In *Arizona,* during September 1 through 15, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-wing doves. During November 21 through January 4, the daily bag limit is 15 mourning doves.

(4) In *California,* the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-wing doves.

(5) In *Hawaii,* the season is only open on the island of Hawaii. The daily bag

limits are 10 mourning doves, spotted doves and chestnut-bellied sandgrouse in the aggregate. Shooting hours are from one-half hour before sunrise through one-half hour after sunset. Hunting is permitted only on weekends and State holidays.

(b) *Band-tailed Pigeons.*

	Season dates	Limits	
		Bag	Possession
Arizona	Sept. 5–Sept. 28	2	6
California:			
North Zone	Sept. 13–Sept. 21	2	6
South Zone	Dec. 13–Dec. 21	2	6
Colorado	Sept. 1–Sept. 30	5	15
New Mexico:			
North Zone	Sept. 1–Sept. 20	5	15
South Zone	Oct. 1–Oct. 20	5	15
Oregon	Sept. 15–Sept. 23	2	6
Utah (1)	Sept. 1–Sept. 30	2	6
Washington	Sept. 15–Sept. 23	2	6

(1) In *Utah,* each band-tailed pigeon hunter must have a band-tailed pigeon hunting permit issued by the State.

■ 5. Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 31, 2014, **Federal Register** (79 FR 44580).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons will select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Sora and Virginia Rails	Clapper and King Rails	Woodcock	Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	75 (1)	45 (2)	9	24
ATLANTIC FLYWAY				
Connecticut (3)	Sept. 2–Nov. 10	Sept. 2–Nov. 10	Oct. 22–Nov. 22 & Nov. 24–Dec. 6.	Oct. 22–Nov. 22 & Nov. 24–Dec. 6.
Delaware	Sept. 1–Nov. 8	Sept. 1–Nov. 8	Nov. 24–Dec. 6 & Dec. 13–Jan. 13.	Sept. 23–Dec. 6 & Dec. 13–Jan. 13.
Florida	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Dec. 18–Jan. 31	Nov. 1–Feb. 15.
Georgia	Sept. 19–Oct. 31 & Nov. 7–Dec. 3.	Sept. 19–Oct. 31 & Nov. 7–Dec. 3.	Dec. 6–Jan. 19	Nov. 15–Feb. 28.
Maine (4)	Sept. 1–Nov. 8	Closed	Oct. 1–Nov. 14	Sept. 1–Dec. 16.
Maryland (5)	Sept. 1–Nov. 8	Sept. 1–Nov. 8	Oct. 31–Nov. 28 & Jan. 16–Jan. 31.	Sept. 24–Nov. 28 & Dec. 15–Jan. 24.
Massachusetts (6)	Sept. 1–Nov. 9	Closed	Deferred	Sept. 1–Dec. 16.
New Hampshire	Closed	Closed	Oct. 1–Nov. 14	Sept. 15–Nov. 14.
New Jersey (7):				
North Zone	Sept. 1–Nov. 8	Sept. 1–Nov. 8	Oct. 18–Nov. 22	Sept. 17–Jan. 1.
South Zone	Sept. 1–Nov. 8	Sept. 1–Nov. 8	Nov. 8–Nov. 29 & Dec. 19–Jan. 1.	Sept. 17–Jan. 1.
New York (8)	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Nov. 9.
North Carolina	Sept. 8–Oct. 11 & Oct. 27–Dec 1.	Sept. 8–Oct. 11 & Oct. 27–Dec. 1.	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Pennsylvania (9)	Sept. 1–Nov. 8	Closed	Oct. 18–Nov. 29	Oct. 18–Nov. 29.
Rhode Island (10)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 18–Dec. 1	Sept. 1–Nov. 9.
South Carolina	Sept. 8–Sept. 12 & Oct. 6–Dec. 9.	Sept. 8–Sept. 12 & Oct. 6–Dec. 9.	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Vermont	Closed	Closed	Oct. 1–Nov. 14	Oct. 1–Nov. 14.
Virginia	Sept. 8–Nov. 16	Sept. 8–Nov. 16	Nov. 24–Dec. 6 & Dec. 15–Jan. 15.	Oct. 10–Oct. 13 & Oct. 21–Jan. 31.
West Virginia (11)	Sept. 1–Nov. 8	Closed	Oct. 18–Dec. 1	Sept. 1–Dec. 13.
MISSISSIPPI FLYWAY				
Alabama (12)	Sept. 6–Sept. 21 & Nov. 28–Jan. 20.	Sept. 6–Sept. 21 & Nov. 28–Jan. 20.	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Arkansas	Sept. 6–Nov. 14	Closed	Nov. 8–Dec. 22	Nov. 1–Feb. 15.
Illinois (13)	Sept. 6–Nov. 14	Closed	Oct. 18–Dec. 1	Sept. 6–Dec. 21.
Indiana (14)	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 6.
Iowa (15)	Sept. 6–Nov. 14	Closed	Oct. 4–Nov. 17	Sept. 6–Nov. 29.
Kentucky	Sept. 1–Nov. 9	Closed	Nov. 1–Dec. 15	Sept. 17–Oct. 26 & Nov. 27–Feb. 1.

	Sora and Virginia Rails	Clapper and King Rails	Woodcock	Snipe
Louisiana (16)	Sept. 13–Sept. 28	Sept. 13–Sept. 28	Dec. 18–Jan. 31	Deferred.
Michigan	Sept. 1–Nov. 9	Closed	Sept. 20–Nov. 3	Sept. 1–Nov. 9.
Minnesota	Sept. 1–Nov. 3	Closed	Sept. 20–Nov. 3	Sept. 1–Nov. 3.
Mississippi	Sept. 13–Nov. 21	Sept. 13–Nov. 21	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Missouri	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16.
Ohio	Sept. 1–Nov. 9	Closed	Oct. 11–Nov. 24	Sept. 1–Nov. 30 & Dec. 20–Jan. 4.
Tennessee	Deferred	Closed	Oct. 25–Dec. 8	Nov. 14–Feb. 28.
Wisconsin	Deferred	Closed	Sept. 20–Nov. 3	Deferred.
CENTRAL FLYWAY				
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
Kansas	Sept. 1–Nov. 9	Closed	Oct. 11–Nov. 24	Sept. 1–Dec. 16.
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16.
Nebraska (17)	Sept. 1–Nov. 9	Closed	Sept. 20–Nov. 3	Sept. 1–Dec. 16.
New Mexico (18)	Sept. 13–Nov. 21	Closed	Closed	Oct. 25–Feb. 8.
North Dakota	Closed	Closed	Sept. 27–Nov. 10	Sept. 20–Dec. 7.
Oklahoma	Sept. 1–Nov. 9	Closed	Nov. 1–Dec. 15	Oct. 1–Jan. 15.
South Dakota (19)	Closed	Closed	Closed	Sept. 1–Oct. 31.
Texas	Sept. 13–Sept. 28 & Nov. 1–Dec. 24.	Sept. 13–Sept. 28 & Nov. 1-Dec. 24.	Dec. 18–Jan. 31	Nov. 1–Feb. 15.
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
PACIFIC FLYWAY				
Arizona	Closed	Closed	Closed	Deferred.
California	Closed	Closed	Closed	Oct. 18–Feb. 1.
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
Idaho:				
Area 1	Closed	Closed	Closed	Deferred.
Area 2	Closed	Closed	Closed	Deferred.
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16.
Nevada	Closed	Closed	Closed	Deferred.
New Mexico (18)	Sept. 13-Nov. 21	Closed	Closed	Oct. 25–Feb. 8.
Oregon	Closed	Closed	Closed	Deferred.
Utah	Closed	Closed	Closed	Deferred.
Washington	Closed	Closed	Closed	Deferred.
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.
(2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In *Connecticut, Delaware, Maryland,* and *New Jersey,* the limits for clapper and king rails are 10 daily and 30 in possession.
(3) In *Connecticut,* the daily bag and possession limits may not contain more than 1 king rail.
(4) In *Maine,* the daily bag and possession limit for sora and Virginia rails is 25.
(5) In *Maryland,* no more than 1 king rail may be taken per day.
(6) In *Massachusetts,* the sora rail limits are 5 daily and 15 in possession; the Virginia rail limits are 10 daily and 30 in possession.
(7) In *New Jersey,* the season for king rail is closed by State regulation.
(8) In *New York,* the rail daily bag and possession limits are 8 and 24, respectively. Seasons for sora and Virginia rails and snipe are closed on Long Island.
(9) In *Pennsylvania,* the daily bag and possession limits for sora and Virginia rails, singly or in the aggregate, are 3 and 9, respectively.
(10) In *Rhode Island,* the sora and Virginia rails limits are 3 daily and 9 in possession, singly or in the aggregate; the clapper and king rail limits are 1 daily and 3 in possession, singly or in the aggregate; the snipe limits are 5 daily and 15 in possession.
(11) In *West Virginia,* the daily bag and possession limit for sora and Virginia rails is 25; the possession limit for snipe is 16.
(12) In *Alabama,* the daily bag and possession limit for all rails, singly or in the aggregate, is 15.
(13) In *Illinois,* shooting hours are from sunrise to sunset.
(14) In *Indiana,* the sora rail limits are 12 daily and 36 in possession. The season on Virginia rails is closed.
(15) In *Iowa,* the limits for sora and Virginia rails are 12 daily and 24 in possession. The possession limit for woodcock is 6 and the possession limit for snipe is 16.
(16) Additional days occurring after September 30 will be published with the late season selections.
(17) In *Nebraska,* the rail limits are 10 daily and 30 in possession.
(18) In *New Mexico,* the rail limits are 10 daily and 20 in possession.
(19) In *South Dakota,* the snipe limits are 5 daily and 15 in possession.

■ 6. Section 20.105 is revised to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the July 31, 2014, **Federal Register** (79 FR 44580).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-seasons regulations for further information.

(a) *Common Moorhens and Purple Gallinules.*

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware	Sept. 1–Nov. 8	15	45
Florida (1)	Sept. 1–Nov.9	15	45
Georgia	Deferred		
New Jersey	Sept. 1–Nov. 8	10	30
New York:			
Long Island	Closed		
Remainder of State	Sept. 1–Nov. 9	8	24
North Carolina	Sept. 8–Oct. 11 & Oct. 27–Dec. 1	15	45
		15	45
Pennsylvania	Sept. 1–Nov. 8	3	9
South Carolina	Sept. 8–Sept. 12 & Oct. 6–Dec. 9	15	45
		15	45
Virginia	Sept. 8–Nov. 16	15	45
West Virginia	Deferred		
MISSISSIPPI FLYWAY			
Alabama	Sept. 6–Sept. 21 & Nov. 28–Jan. 20	15	45
		15	45
Arkansas	Sept. 1–Nov. 9	15	45
Kentucky	Sept. 1–Nov. 9	15	45
Louisiana (2)	Sept. 13–Sept. 28	15	45
Michigan	Sept. 1–Nov. 9	1	3
Minnesota	Deferred		
Mississippi	Sept. 13–Nov. 21	15	45
Ohio	Sept. 1–Nov. 9	15	45
Tennessee	Deferred		
Wisconsin	Deferred		
CENTRAL FLYWAY			
New Mexico:			
Zone 1	Sept. 27–Dec. 5	1	3
Zone 2	Sept. 27–Dec. 5	1	3
Oklahoma	Sept. 1–Nov. 9	15	45
Texas	Sept. 13–Sept. 28 & Nov. 1–Dec. 24	15	45
		15	45
PACIFIC FLYWAY			
All States	Deferred		

(1) The season applies to common moorhens only.
(2) Additional days occurring after September 30 will be published with the late season selections.

(b) *Sea Ducks* (scoter, eider, and long-tailed ducks in Atlantic Flyway).

Within the special sea duck areas, the daily bag limit is 7 scoter, eider, and long-tailed ducks, singly or in the aggregate, of which no more than 4 may be scoters. Possession limits are three times the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season dates	Limits	
		Bag	Possession
Connecticut (1)	Sept. 22–Jan. 20	5	15
Delaware	Sept. 23–Jan. 24	7	21
Georgia	Deferred		
Maine (2)	Oct. 1–Jan. 31	7	21
Maryland	Deferred		
Massachusetts	Deferred		
New Hampshire (3)	Oct. 1–Jan. 15	7	21
New Jersey	Sept. 23–Jan. 24	7	21
New York	Oct. 17–Jan. 31	7	21
North Carolina	Deferred		
Rhode Island	Oct. 11–Jan. 25	5	15
South Carolina	Deferred		
Virginia	Deferred		

Note: Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in *Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina,* and *Virginia* in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

(1) In *Connecticut,* the daily bag limit may include no more than 4 long-tailed ducks.
(2) In *Maine,* the daily bag limit for eiders is 4, and the possession limit is 12.
(3) In *New Hampshire,* the daily bag limit may include no more than 4 eiders or 4 long-tailed ducks.

(c) *Early (September) Duck Seasons.* **Note:** Unless otherwise specified, the seasons listed below are for teal only.

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware (1)	Sept. 12–Sept. 30	6	18
Florida (2)	Sept. 20–Sept. 28	6	18
Georgia	Sept. 13–Sept. 28	6	18
Maryland (1)	Sept. 16–Sept. 30	6	18
North Carolina (1)	Sept. 6–Sept. 24	6	18
South Carolina (3)	Sept. 12–Sept. 27	6	18
Virginia (1)	Sept. 17–Sept. 30	6	18
MISSISSIPPI FLYWAY			
Alabama	Sept. 6–Sept. 21	6	18
Arkansas (3)	Sept. 13–Sept. 28	6	18
Illinois (3)	Sept. 6–Sept. 21	6	18
Indiana (3)	Sept. 6–Sept. 21	6	18
Iowa (3)	Sept. 6–Sept. 21	6	18
Kentucky (2)	Sept. 17–Sept. 25	6	18
Louisiana	Sept. 13–Sept. 28	6	18
Michigan	Sept. 1–Sept. 7	6	18
Mississippi	Sept. 13–Sept. 28	6	18
Missouri (3)	Sept. 6–Sept. 21	6	18
Ohio (3)	Sept. 6–Sept. 21	6	18
Tennessee (2)	Sept. 13–Sept. 21	6	18
Wisconsin	Sept. 1–Sept. 7	6	18
CENTRAL FLYWAY			
Colorado (1)	Sept. 13–Sept. 21	6	18
Kansas:			
Low Plains	Sept. 13–Sept. 28	6	18
High Plains	Sept. 20–Sept. 28	6	18
Nebraska (1):			
Low Plains	Sept. 6–Sept. 21	6	18
High Plains	Sept. 6–Sept. 14	6	18
New Mexico	Sept. 13–Sept. 28	6	18
Oklahoma	Sept. 13–Sept. 28	6	18
Texas:			
High Plains	Sept. 13–Sept. 28	6	18
Rest of State	Sept. 13–Sept. 28	6	18

(1) Area restrictions. See State regulations.
(2) In *Florida, Kentucky,* and *Tennessee,* the daily bag limit for the first 5 days of the season is 6 wood ducks and teal in the aggregate, of which no more than 2 may be wood ducks. During the last 4 days of the season, the daily bag limit is 6 teal only. The possession limit is twice the daily bag limit.
(3) Shooting hours are from sunrise to sunset.

(d) *Special Early Canada Goose Seasons.*

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Connecticut (1):			
North Zone	Sept. 2–Sept. 30	15	45
South Zone	Sept. 15–Sept. 30	15	45
Delaware	Sept. 1–Sept. 25	15	45
Florida	Sept. 6–Sept. 28	5	15
Georgia	Sept. 6–Sept. 28	5	15
Maine:			
Northern Zone	Sept. 1–Sept. 25	6	18
Southern Zone	Sept. 1–Sept. 25	8	24
Coastal Zone	Sept. 1–Sept. 25	8	24
Maryland (1)(2):			
Eastern Unit	Sept. 1–Sept. 15	8	24
Western Unit	Sept. 1–Sept. 25	8	24
Massachusetts:			
Central Zone	Sept. 2–Sept. 25	7	21
Coastal Zone	Sept. 2–Sept. 25	7	21
Western Zone	Sept. 2–Sept. 25	7	21
New Hampshire	Sept. 2–Sept. 25	5	15
New Jersey (1)(2)(3)	Sept. 1–Sept. 30	15	45

	Season dates	Limits	
		Bag	Possession
New York (4):			
Lake Champlain Zone	Sept. 2–Sept. 25	5	15
Northeastern Zone	Sept. 1–Sept. 25	15	45
East Central Zone	Sept. 1–Sept. 25	15	45
Hudson Valley Zone	Sept. 1–Sept. 25	15	45
West Central Zone	Sept. 1–Sept. 25	15	45
South Zone	Sept. 1–Sept. 25	15	45
Western Long Island Zone	Closed		
Central Long Island Zone	Sept. 2–Sept. 30	15	45
Eastern Long Island Zone	Sept. 2–Sept. 30	15	45
North Carolina (5)(6)	Sept. 1–Sept. 30	15	45
Pennsylvania (7):			
SJBP Zone (8)	Sept. 1–Sept. 25	3	9
Rest of State (9)	Sept. 1–Sept. 25	8	24
Rhode Island (1)	Sept. 1–Sept. 30	15	45
South Carolina:			
Early-Season Hunt Unit	Sept. 1–Sept. 30	15	45
Vermont:			
Lake Champlain Zone	Sept. 2–Sept. 25	5	15
Interior Vermont Zone	Sept. 2–Sept. 25	5	15
Connecticut River Zone (10)	Sept. 2–Sept. 25	5	15
Virginia (11)	Sept. 1–Sept. 25	10	30
West Virginia	Sept. 1–Sept. 13	5	15
MISSISSIPPI FLYWAY			
Alabama	Sept. 1–Sept. 15	5	15
Arkansas (12)	Sept. 1–Sept. 15	5	15
Illinois:			
North Zone	Sept. 1–Sept. 15	5	15
Central Zone	Sept. 1–Sept. 15	5	15
South Central Zone	Sept. 1–Sept. 15	2	6
South Zone	Sept. 1–Sept. 15	2	6
Indiana	Sept. 1–Sept. 15	5	15
Iowa:			
South Goose Zone:			
Des Moines Goose Zone	Sept. 6–Sept. 14	5	15
Cedar Rapids/Iowa City Goose Zone	Sept. 6–Sept. 14	5	15
Remainder of South Zone	Closed		
North Goose Zone:			
Cedar Falls/Waterloo Zone	Sept. 6–Sept. 14	5	15
Remainder of North Zone	Closed		
Kentucky (12)	Sept. 1–Sept. 15	5	15
Michigan:			
North Zone	Sept. 1–Sept. 10	5	15
Middle Zone	Sept. 1–Sept. 15	5	15
South Zone:			
Huron, Saginaw, and Tuscola Counties	Sept. 1–Sept. 10	5	15
Rest of South Zone	Sept. 1–Sept. 15	5	15
Minnesota:			
Northwest Zone	Sept. 6–Sept. 22	5	15
Intensive Harvest Zone	Sept. 6–Sept. 22	10	30
Remainder of State	Sept. 6–Sept. 22	5	15
Mississippi	Sept. 1–Sept. 15	5	15
Ohio	Sept. 1–Sept. 15	5	15
Tennessee	Sept. 1–Sept. 15	5	15
Wisconsin	Sept. 1–Sept. 15	5	15
CENTRAL FLYWAY			
North Dakota:			
Missouri River Zone	Sept. 1–Sept. 7	15	45
Remainder of State	Sept. 1–Sept. 15	15	45
Oklahoma	Sept. 13–Sept. 22	8	24
South Dakota (12)	Sept. 1–Sept. 30	15	45
Texas:			
East Zone	Sept. 13–Sept. 28	3	9
PACIFIC FLYWAY			
Colorado	Sept. 1–Sept. 9	4	12
Oregon:			
Northwest Zone	Sept. 6–Sept. 14	5	15
Southwest Zone (13)	Sept. 6–Sept. 10	5	15
East Zone	Sept. 6–Sept. 10	5	15
Washington:			
Mgmt. Area 2B	Sept. 1–Sept. 15	15	45
Mgmt. Areas 1 & 3	Sept. 10–Sept. 15	5	15

	Season dates	Limits	
		Bag	Possession
Mgmt. Area 4 & 5	Sept. 13–Sept. 14	3	6
Mgmt. Area 2A	Sept. 10–Sept. 15	3	6
Wyoming:			
Teton County	Sept. 1–Sept. 8	3	9
Rest of State	Sept. 1–Sept. 8	2	6

(1) Shooting hours are one-half hour before sunrise to one-half hour after sunset.
(2) The use of shotguns capable of holding more than 3 shotshells is allowed.
(3) The use of electronic calls is allowed.
(4) In *New York,* in all areas except the Northeastern Goose Hunting Area, shooting hours are one-half hour before sunrise to one-half hour after sunset, the use of shotguns capable of holding more than 3 shotshells is allowed, and the use of electronic calls is allowed. In the Northeastern Goose Hunting Area, shooting hours are one-half hour before sunrise to one-half hour after sunset, shotguns capable of holding more than 3 shotshells are allowed, and electronic calls are allowed only from September 1 to September 19 and September 22 to September 25. On September 20 and September 21, shooting hours are one-half hour before sunrise to sunset, shotguns must be capable of holding no more than 3 shotshells, and electronic calls are not allowed.
(5) In *North Carolina,* the use of unplugged guns and electronic calls is allowed in that area west of U.S. Highway 17 only.
(6) In *North Carolina,* shooting hours are one-half hour before sunrise to one-half hour after sunset in that area west of U.S. Highway 17 only.
(7) In *Pennsylvania,* shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 19, September 21 to September 25. On September 20, shooting hours are one-half hour before sunrise to sunset.
(8) In *Pennsylvania,* in the area south of SR 198 from the Ohio State line to intersection of SR 18, SR 18 south to SR 618, SR 618 south to US Route 6, US Route 6 east to US Route 322/SR 18, US Route 322/SR 18 west to intersection of SR 3013, SR 3013 south to the Crawford/Mercer County line, not including the Pymatuning State Park Reservoir and an area to extend 100 yards inland from the shoreline of the reservoir, excluding the area east of SR 3011 (Hartstown Road), the daily bag limit is one goose with a possession limit of 3 geese. The season is closed on State Game Lands 214. However, during the youth waterfowl hunting day on September 20, regular season regulations apply.
(9) In *Pennsylvania,* in the area of Lancaster and Lebanon Counties north of the Pennsylvania Turnpike, east of SR 501 to SR 419, south of SR 419 to the Lebanon-Berks County line, west of the Lebanon-Berks County line and the Lancaster-Berks County line to SR 1053, west of SR 1053 to the Pennsylvania Turnpike I–76, the daily bag limit is 1 goose with a possession limit of 3 geese. On State Game Lands No. 46 (Middle Creek Wildlife Management Area), the season is closed. However, during the youth waterfowl hunting day on September 20, regular season regulations apply.
(10) In *Vermont,* the season in the Connecticut River Zone is the same as the New Hampshire Inland Zone season, set by New Hampshire.
(11) In *Virginia,* shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 16, and one-half hour before sunrise to sunset from September 17 to September 25 in the area east of I–95 where the September teal season is open. Shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 21, and one-half hour before sunrise to sunset from September 22 to September 25 in the area west of I–95.
(12) See State regulations for additional information and restrictions.
(13) In *Oregon,* the season is closed in the Southcoast Zone.

(e) *Regular Goose Seasons.*

Note: Bag and possession limits will conform to those set for the regular season. Additional season dates occurring after September 30 will be published with the late season selections.

	Season dates	Limits	
		Bag	Possession
MISSISSIPPI FLYWAY			
Michigan:			
Canada Geese:			
North Zone	Sept. 11–Sept. 30.		
Middle Zone	Sept. 20–Sept. 28.		
South Zone:			
Muskegon GMU	Deferred.		
Allegan Co. GMU	Deferred.		
Saginaw Co. GMU	Sept. 20–Sept. 22.		
Tuscola/Huron Co. GMU	Sept. 20–Sept. 28.		
Remainder of Zone	Sept. 20–Sept. 22.		
White-fronted Geese:			
North Zone	Sept. 11–Sept. 30.		
Middle Zone	Deferred.		
South Zone:			
Muskegon GMU	Deferred.		
Allegan Co. GMU	Deferred.		
Saginaw Co. GMU	Deferred.		
Tuscola/Huron Co. GMU	Deferred.		
Remainder of Zone	Deferred.		
Light Geese:			
North Zone	Sept. 11–Sept. 30.		
Middle Zone	Sept. 20–Sept. 28.		
South Zone:			
Muskegon GMU	Deferred.		
Allegan Co. GMU	Deferred.		
Saginaw Co. GMU	Sept. 20–Sept. 22.		
Tuscola/Huron Co. GMU	Sept. 20–Sept. 28.		
Remainder of Zone	Deferred.		
Brant:			

	Season dates	Limits	
		Bag	Possession
North Zone	Same as for Light Geese.		
Middle Zone	Same as for Light Geese.		
South Zone	Same as for Light Geese.		
Wisconsin:			
Canada Geese:			
North Zone	Sept. 16–Sept. 30.		
South Zone	Sept. 16–Sept. 30.		
Mississippi River Zone	Sept. 27–Sept. 30.		
Horicon Zone	Sept. 16–Sept. 30.		
White-fronted Geese:			
North Zone	Sept. 16–Sept. 30.		
South Zone	Sept. 16–Sept. 30.		
Mississippi River Zone	Deferred.		
Horicon Zone	Sept. 20–Sept. 30.		
Light Geese	Same as for Canada Geese.		
Brant	Same as for Canada Geese		

(f) *Youth Waterfowl Hunting Days.*

The following seasons are open only to youth hunters. Youth hunters must be accompanied into the field by an adult at least 18 years of age. This adult cannot duck hunt but may participate in other open seasons.

Definitions

Youth Hunters: Includes youths 15 years of age or younger.

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all Counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Note: Bag and possession limits will conform to those set for the regular season unless there is a special season already open (e.g., September Canada goose season), in which case, that season's daily bag limit will prevail.

		Season dates
ATLANTIC FLYWAY		
Connecticut		Deferred.
Delaware	Ducks, geese, brant, mergansers, and coots	Oct. 4 & Feb. 7.
Florida		Deferred.
Georgia	Ducks, geese, mergansers, coots, moorhens, and gallinules	Nov. 15 & 16.
Maine	Ducks, geese, mergansers, and coots	
	North Zone	Sept. 20 & Dec. 13.
	South Zone	Sept. 20 & Oct. 25
	Coastal Zone	Sept. 20 & Nov. 8.
Maryland (1)		Deferred.
Massachusetts		Deferred.
New Hampshire	Ducks, geese, mergansers, and coots	Sept. 27 & 28.
New Jersey		Deferred.
New York (2)	Ducks, mergansers, coots, brant, and Canada geese	
	Long Island Zone	Nov. 22 & 23.
	Lake Champlain Zone	Sept. 27 & 28.
	Northeastern Zone	Sept. 20 & 21
	Southeastern Zone	Sept. 27 & 28.
	Western Zone	Oct. 4 & 5.
North Carolina		Deferred.
Pennsylvania	Ducks, mergansers, Canada geese, coots, and moorhens	Sept. 20.
Rhode Island	Ducks, mergansers and coots	Oct. 25 & 26.
South Carolina		Deferred.
Vermont	Ducks, geese, mergansers and coots	Sept. 27 & 28.
Virginia		Deferred.
West Virginia (3)	Ducks, geese, mergansers, coots, and gallinules	Sept. 20 & Nov. 8.
MISSISSIPPI FLYWAY		
Alabama	Ducks, mergansers, coots, geese, moorhens, and gallinules	Feb. 7 & 8.
Arkansas		Deferred.
Illinois		Deferred.
Indiana		Deferred.
Iowa		Deferred.
Kentucky		Deferred.
Louisiana		Deferred.
Michigan	Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 13 & 14.
Minnesota	Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 13.
Mississippi		Deferred.
Missouri		Deferred.
Ohio		Deferred.
Tennessee		Deferred.
Wisconsin	Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 20 & 21.
CENTRAL FLYWAY		
Colorado	Ducks, dark geese, mergansers, and coots	
	Mountain/Foothills Zone	Sept. 27 & 28.
	Northeast Zone	Oct. 4 & 5.
	Southeast Zone	Oct. 18 & 19.
Kansas (4)		Deferred.
Montana	Ducks, geese, mergansers, and coots	Sept. 27 & 28.
Nebraska (5)	Ducks, geese, mergansers, and coots	Deferred.
New Mexico	Ducks, mergansers, coots, and moorhens	
	North Zone	Sept. 27 & 28.
	South Zone	Oct. 11 & 12.
North Dakota	Ducks, geese, mergansers, and coots	Sept. 20 & 21.
Oklahoma		Deferred.
South Dakota (6)	Ducks, Canada geese, mergansers, and coots	Sept. 20 & 21.
Texas		Deferred.
Wyoming	Ducks, geese, mergansers, and coots	
	Zone C1	Sept. 27 & 28.
	Zone C2	Sept. 20 & 21.
	Zone C3	Sept. 20 & 21.
PACIFIC FLYWAY		
Arizona		Deferred.
California	Ducks, geese, mergansers, coots, and moorhens	
	Northeastern Zone	Sept. 20 & 21.
	Rest of State	Deferred.
Colorado	Ducks, geese, mergansers, and coots	Oct. 18 & 19.
Idaho	Ducks, geese, mergansers, and coots	Sept. 27 & 28.
Montana	Ducks, geese, mergansers, and coots	Sept. 27 & 28.
Nevada	Ducks, geese, mergansers, coots, and moorhens	
	Northeast Zone	Sept. 13 & 14.
	Rest of State	Deferred.
New Mexico	Ducks, mergansers, coots, and moorhens	Oct. 4 & 5.
Oregon (7)	Ducks, geese, mergansers, and coots	Sept. 27 & 28.
Utah	Ducks, dark geese, mergansers, and coots	Sept. 20.
Washington (8)	Ducks, Canada geese, mergansers, and coots	Sept. 20 & 21.
Wyoming	Ducks, dark geese, mergansers, and coots	Sept. 20 & 21.

(1) In *Maryland,* the accompanying adult must be at least 21 years of age and possess a valid Maryland hunting license (or be exempt from the license requirement). This accompanying adult may not shoot or possess a firearm.
(2) In *New York,* the daily bag limit for Canada geese is 3.
(3) In *West Virginia,* the accompanying adult must be at least 21 years of age.
(4) In *Kansas,* the adult accompanying the youth must possess any licenses and/or stamps required by law for that individual to hunt waterfowl.
(5) In *Nebraska,* see State regulations for additional information on the daily bag limit.
(6) In *South Dakota,* the limit for Canada geese is 4, except in areas where the Special Early Canada goose season is open. In those areas, the limit is the same as for that special season.

(7) In *Oregon,* the goose season is closed for the youth hunt in the Northwest Special Permit Goose Zone and the Northwest General Zone.
(8) In *Washington,* the Canada goose season is closed in Goose Areas 2A and 2B.

■ 7. Section 20.106 is revised to read as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the July 31, 2014, **Federal Register** (79 FR 44580).

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take sandhill cranes at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Season dates	Limits	
		Bag	Possession
MISSISSIPPI FLYWAY			
Kentucky (1)	Deferred		
Minnesota (1):			
NW Goose Zone	Sept. 13–Oct. 19	1	3
Tennessee (1)	Deferred		
CENTRAL FLYWAY			
Colorado (1)	Oct. 4–Nov. 30	3	9
Kansas (1)(2)(3)	Nov. 5–Jan. 1	3	9
Montana:			
Regular Season Area (1)	Oct. 4–Nov. 30	3	9 per season
Special Season Area (4)	Sept. 13–Oct. 5	2 per season	
New Mexico:			
Regular Season Area (1)	Oct. 31–Jan. 31	3	6
Middle Rio Grande Valley Area (4)(5)	Oct. 25–Oct. 26 &	2 per season	
	Nov. 15–Nov. 16 &	2 per season	
	Nov. 8 &	2 per season	
	Nov. 29–Nov. 30 &	2 per season	
	Jan. 10–Jan. 11	2 per season	
Southwest Area (4)	Oct. 25–Nov. 2 &	2 per season	
	Jan. 3–Jan. 4	2 per season	
Estancia Valley (4)	Oct. 25–Nov. 2	2 per season	
North Dakota (1):			
Area 1	Sept. 20–Nov. 16	3	9
Area 2	Sept. 20–Nov. 16	2	6
Oklahoma (1)	Deferred		
South Dakota (1)	Sept. 27–Nov. 23	3	9
Texas (1)	Deferred		
Wyoming:			
Regular Season (Area 7) (1)	Sept. 13–Nov. 9	3	9
Riverton-Boysen Unit (Area 4) (4)	Sept. 13–Oct. 5	1 per season	
Big Horn, Hot Springs, Park, and Washakie Counties (Area 6) (4).	Sept. 13–Oct. 5	1 per season	
PACIFIC FLYWAY			
Arizona (4):			
Special Season Area	Nov. 7–Nov. 9 &	1 per season	
	Nov. 14–Nov. 16 &	2 per season	
	Nov. 18–Nov. 20 &	2 per season	
	Nov. 22–Nov. 24 &	2 per season	
	Nov. 26–Nov. 28 &	2 per season	
	Dec. 5–Dec. 7	2 per season	
Lower CO River Hunt Area	Closed		
Idaho (4):			
Areas 1, 2, 3, 5, & 6	Sept. 1–Sept. 15	2	2 per season

	Season dates	Limits	
		Bag	Possession
Area 4	Closed		
Montana (4):			
Special Season Area (4)	Sept. 13–Oct. 5	2 per season	
Utah (4):			
Rich County	Sept. 6–Sept. 14	1 per season	
Cache County	Sept. 6–Sept. 14	1 per season	
Eastern Box Elder County	Sept. 6–Sept. 14	1 per season	
Uintah County	Sept. 20–Oct. 19	1 per season	
Wyoming (4):			
Bear River Area (Area 1)	Sept. 1–Sept. 8	1 per season	
Salt River Area (Area 2)	Sept. 1–Sept. 8	1 per season	
Eden-Farson Area (Area 3)	Sept. 1–Sept. 8	1 per season	
Uinta County (Area 5)	Sept. 1–Sept. 8	1 per season	

(1) Each person participating in the regular sandhill crane seasons must have a valid sandhill crane hunting permit and/or a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.
(2) In *Kansas,* shooting hours are from sunrise until sunset.
(3) In *Kansas,* each person desiring to hunt sandhill cranes is required to pass an annual, online sandhill crane identification examination.
(4) Hunting is by State permit only. See State regulations for further information.
(5) In *New Mexico,* in the Middle Rio Grande Valley Area (Bernardo WMA and Casa Colorado WMA), the season is only open for youth hunters on November 8. See State regulations for further details.

■ 8. Section 20.109 is revised to read as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 31, 2014, **Federal Register** (79 FR 44580). For those extended seasons for ducks, mergansers, and coots, area descriptions were published in an August 22, 2014 **Federal Register** and will be published again in a late-September 2014, **Federal Register**.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS

Daily bag limit—3 migratory birds, singly or in the aggregate.

Possession limit—9 migratory birds, singly or in the aggregate.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons — unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas. Only extended falconry seasons are shown below. Many States permit falconry during the gun seasons. Please consult State regulations for details.

For ducks, mergansers, coots, geese, and some moorhen seasons; additional season days occurring after September 30 will be published with the late-season selections. Some States have deferred selections. Consult late-season regulations for further information.

	Extended falconry dates
ATLANTIC FLYWAY	
Delaware	
Doves	Jan. 15–Jan. 31.
Rails	Nov. 10–Dec. 17.
Woodcock	Sept. 29–Oct. 4 & Jan. 14–Mar. 10.
Florida	
Doves	Jan. 16–Feb. 1.
Rails	Nov. 10–Dec. 16.
Woodcock	Nov. 24–Dec. 17 & Feb. 1–Mar. 10.
Common moorhens	Nov. 10–Dec. 14.
Georgia	
Moorhens, gallinules, and sea ducks	Dec. 1–Dec. 5 & Jan. 26–Jan. 28.
Maryland	
Doves	Jan. 16–Feb. 1.
Rails	Nov. 9–Dec. 16.
Woodcock	Oct. 1–Oct. 29 & Feb. 6–Mar. 10.
North Carolina	
Doves	Oct. 16–Nov. 1.
Rails, moorhens, and gallinules	Dec. 6–Jan. 10.
Woodcock	Nov. 8–Dec. 6 & Feb. 2–Feb. 28.
Pennsylvania	
Doves	Nov. 17–Nov. 21 & Dec. 1–Dec. 12.
Rails	Nov. 10–Dec. 17.
Woodcock and snipe	Sept. 1–Oct. 17 & Dec. 1–Dec. 17.
Moorhens and gallinules	Nov. 10–Dec. 17.
Virginia	
Doves	Nov. 1 & Jan. 16–Jan. 31.

	Extended falconry dates
Woodcock	Oct. 17–Nov. 23 & Dec. 7–Dec. 14 & Jan. 16–Jan. 31.
Rails, moorhens, and gallinules	Nov. 17–Dec. 23.
MISSISSIPPI FLYWAY	
Illinois	
Doves	Nov. 15–Dec. 1.
Rails	Sept. 1–Sept. 5 & Nov. 15–Dec. 16.
Woodcock	Sept. 1–Oct. 17 & Dec. 2–Dec. 16.
Indiana	
Doves	Oct. 20–Oct. 31 & Jan. 12–Jan. 18.
Woodcock	Sept. 20–Oct. 14 & Nov. 29–Jan. 4.
Ducks, mergansers, and coots (1) North Zone	Sept. 27–Sept. 30.
Louisiana	
Doves	Sept. 15–Oct. 1.
Woodcock	Oct. 28–Dec. 17 & Feb. 1–Feb. 11.
Minnesota	
Woodcock	Sept. 1–Sept. 19 & Nov. 4–Dec. 16.
Rails and snipe	Nov. 4–Dec. 16.
Doves	Nov. 10–Dec. 16.
Missouri	
Doves	Nov. 10–Dec. 16.
Ducks, mergansers, and coots	Sept. 6–Sept. 21.
Tennessee	
Doves	Sept. 29–Oct. 10 & Nov. 3–Nov. 7.
Ducks (1)	Sept. 15–Oct. 20.
Wisconsin	
Rails, snipe, moorhens, and gallinules (1)	Sept. 1–Sept. 26
Woodcock	Sept. 1–Sept. 20.
Ducks, mergansers, and coots	Sept. 20–Sept. 21.
CENTRAL FLYWAY	
Montana (2)	
Ducks, mergansers, and coots (1)	Sept. 24–Sept. 30.
Nebraska	
Ducks, mergansers, and coots Zone 1	Sept. 6–Sept. 21.
Zone 2:	
Low Plains	Sept. 6–Sept. 21.
High Plains	Sept. 6–Sept. 14.
Zone 3:	
Low Plains	Sept. 6–Sept. 21.
High Plains	Sept. 6–Sept. 14.
Zone 4	Sept. 6–Sept. 21.
New Mexico	
Doves	
North Zone	Nov. 10–Nov. 12 & Nov. 28–Dec. 31.
South Zone	Oct. 14–Nov. 12 & Nov. 28–Dec. 4.
Band-tailed pigeons	
North Zone	Sept. 21–Dec. 16.
South Zone	Oct. 21–Jan. 15.
Ducks and coots	Sept. 13–Sept. 21.
Sandhill cranes	
Regular Season Area	Oct. 17–Oct. 30.
Estancia Valley Area (3)	Nov. 3–Dec. 23.
Common moorhens	Dec. 6–Jan. 11.
Sora and Virginia rails	Nov. 22–Dec. 28.
North Dakota	
Ducks, mergansers, coots, and snipe	Sept. 8–Sept. 12 & Sept. 15–Sept. 19.
South Dakota	
Ducks, mergansers, and coots (1) High Plains	Sept. 1–Sept. 8.
Low Plains:	
North Zone	Sept. 1–Sept. 14 & Sept. 18–Sept. 22.
Middle Zone	Sept. 1–Sept. 14 & Sept. 18–Sept. 22.
South Zone	Sept. 1–Sept. 14 & Sept. 18–Sept. 22.
Texas	
Doves	Nov. 8–Dec. 14.
Rails, gallinules, and woodcock	Jan. 26–Feb. 9.
Wyoming	
Rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots Zone C1	Sept. 27–Sept. 28 & Oct. 23–Oct. 30.
Zone C2 & C3	Sept. 20–Sept. 26 & Dec. 8–Dec. 10.
PACIFIC FLYWAY	
Arizona	
Doves	Sept. 16–Nov. 1.
New Mexico	
Doves	

	Extended falconry dates
North Zone	Nov. 10–Nov. 12 & Nov. 28–Dec. 31.
South Zone	Oct. 14–Nov. 12 & Nov. 28–Dec. 4.
Band-tailed pigeons	
North Zone	Sept. 21–Dec. 16.
South Zone	Oct. 21–Jan. 15.
Oregon	
Doves	Oct. 31–Dec. 16.
Band-tailed pigeons (4)	Sept. 1–Sept. 14 & Sept. 24–Dec. 16.
Utah	
Doves	Nov. 1–Dec. 16.
Band-tailed pigeons	Oct. 1–Dec. 16.
Washington	
Doves	Oct. 1–Dec. 16.
Wyoming	
Rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots (1)	Sept. 20–Sept. 21.

(1) Additional days occurring after September 30 will be published with the late-season selections.
(2) In *Montana,* the bag limit is 2 and the possession limit is 6.
(3) In *New Mexico,* the bag limit for sandhill cranes in the Estancia Valley Area is 2 per day and the possession limit is 2 per season.
(4) In *Oregon,* no more than 1 pigeon daily in bag or possession.

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Part IV

Bureau of Consumer Financial Protection

12 CFR Part 1003

Home Mortgage Disclosure (Regulation C); Proposed Rule

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1003

[Docket No. CFPB–2014–0019]

RIN 3170–AA10

Home Mortgage Disclosure (Regulation C)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is publishing for public comment a proposed rule amending Regulation C to implement amendments to the Home Mortgage Disclosure Act (HMDA) made by section 1094 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Consistent with section 1094 of the Dodd-Frank Act, the Bureau proposes to add several new reporting requirements and to clarify several existing requirements. The Bureau is also proposing changes to institutional and transactional coverage under Regulation C.

DATES: Comments must be received on or before October 29, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2014–0019 or RIN 3170–AA10, by any of the following methods:

- *Email: FederalRegisterComments@cfpb.gov.*
- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: David Jacobs, Terry J. Randall, or James Wylie, Counsels; or Elena Grigera Babinecz, Joan Kayagil, Thomas J. Kearney, Amanda Quester, or Laura Stack, Senior Counsels, Office of Regulations, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Summary of Proposed Rule

For almost 40 years, HMDA[1] has provided the public with information about how financial institutions are serving the housing needs of their communities. This information has helped to promote access to fair credit in the housing market. Section 1094 of the Dodd-Frank Act amended HMDA to improve the utility of the HMDA data and revise Federal agency rulemaking and enforcement authorities.[2] The Bureau views implementation of the Dodd-Frank Act changes to HMDA as an opportunity to assess other ways to improve upon the data collected, reduce unnecessary burden on financial institutions, and streamline and modernize the manner in which financial institutions collect and report HMDA data. Accordingly, the Bureau is proposing to implement the Dodd-Frank Act amendments and to make other changes in the Bureau's Regulation C,[3] which implements HMDA.

Specifically, the Bureau is proposing several changes to revise the tests for determining which financial institutions and housing-related credit transactions are covered under HMDA. The Bureau also is proposing to require financial institutions to report new data points identified in the Dodd-Frank Act, as well as other data points that the Bureau believes may be necessary to carry out the purposes of HMDA. Further, the Bureau is proposing to better align the requirements of Regulation C to existing industry standards where practicable. To improve the quality and timeliness of HMDA data, the Bureau is proposing to require financial institutions with large numbers of reported transactions to submit their HMDA data on a quarterly, rather than an annual, basis. To minimize costs to HMDA reporters associated with making certain data available to the public, the Bureau is proposing that reporters may direct members of the public to a publicly available Web site to obtain the data. The Bureau is also proposing several changes to clarify and provide additional guidance on existing requirements of Regulation C that financial institutions and other stakeholders have identified as confusing or unclear. The Bureau solicits public comment on all issues involved with this proposal, including each of its specific proposals to amend Regulation C.

A. Proposed Modifications to Institutional and Transactional Coverage

The Bureau is proposing modifications to institutional and transactional coverage to better achieve HMDA's purposes in light of current market conditions and to reduce unnecessary burden on financial institutions. The Bureau is proposing to adjust Regulation C's institutional coverage test to simplify the institutional coverage requirements by adopting, for all financial institutions, a uniform loan-volume threshold of 25 loans. Currently, Regulation C contains different coverage criteria for depository institutions (banks, savings associations, and credit unions) and nondepository institutions. Depository institutions that originate one first-lien home purchase loan or refinancing secured by a one-to-four family dwelling and that meet other criteria for a financial institution under Regulation C must collect and report HMDA data, while some nondepository institutions that originate as many as 99 home purchase loans, including refinancings of home purchase loans, annually do not have to collect and report HMDA data.

Under the proposal, depository and nondepository institutions that meet all other criteria for a financial institution under Regulation C would be required to report HMDA data if they originated 25 covered loans, excluding open-end lines of credit, in the previous calendar year. The Bureau believes that this proposal would improve the quality of HMDA data by increasing visibility into the practices of nondepository institutions. In addition, the Bureau is concerned that the requirement for depository institutions to report even if they originate only one mortgage loan may impose costs not justified by the benefits. The proposal would relieve depository institutions that originate a small number of mortgage loans from

[1] 12 U.S.C. 2801–2810.

[2] Dodd-Frank Act, Public Law 111–203, section 1094, 124 Stat. 1376, 2097 (2010).

[3] 12 CFR part 1003.

the burden of reporting HMDA data without significantly impacting the data's quality for analysis at the national, community, or institutional level.[4]

The Bureau is also proposing to generally expand the types of transactions subject to Regulation C, while eliminating the requirement to report unsecured home improvement loans. Currently, Regulation C requires reporting of three types of loans: home purchase, home improvement, and refinancing. Reverse mortgages that are home purchase loans, home improvement loans, or refinancings are reported under Regulation C, but they are not separately identified and many data points do not currently account for the features of reverse mortgages. Home-equity lines of credit may be reported at financial institutions' option, but are not required to be reported. As a result, HMDA data currently contains gaps in data regarding important segments of the housing market.

Under the proposal, financial institutions generally would be required to report all closed-end loans, open-end lines of credit, and reverse mortgages secured by dwellings. Unsecured home improvement loans would no longer be reported. Thus, financial institutions would no longer be required to ascertain an applicant's intended purpose for a dwelling-secured loan to determine if the loan is required to be reported under Regulation C, though they would still itemize dwelling-secured loans by different purpose when reporting. Certain types of loans would continue to be excluded from Regulation C requirements, including loans on unimproved land and temporary financing. Reverse mortgages and open-end lines of credit would be identified as such to allow for differentiation from other loan types. Further, many of the data points would be modified to take account of the characteristics of, and to clarify reporting requirements for, different types of loans. The Bureau believes these proposals will yield more consistent and useful data and better align Regulation C with the current housing finance market.[5]

B. Proposed Modifications to Reportable Data Requirements

The Bureau believes that it can make HMDA compliance and data submission easier for HMDA reporters by aligning, to the extent practicable, Regulation C requirements with existing industry standards for collecting and transmitting data on mortgage loans and applications. Therefore, the Bureau is proposing to align many of the HMDA data requirements with the widely-used Mortgage Industry Standards Maintenance Organization (MISMO) data standards for residential mortgages.[6] The Bureau believes that having consistent data standards for both industry and regulatory use promotes regulatory compliance, improves regulatory clarity, market efficiency, and data utility.[7]

The Bureau is proposing to add new data points to the reporting requirements established in Regulation C, as well as to modify certain existing data points. Some of the new data points are specifically identified by the Dodd-Frank Act. Others are proposed pursuant to the Bureau's discretionary rulemaking authority to carry out the purposes of HMDA by addressing data gaps. The data points that the Bureau is proposing to add or modify can be grouped into four broad categories:

- Information about applicants, borrowers, and the underwriting process, such as age, credit score, debt-to-income ratio, reasons for denial if the application was denied, the application channel, and automated underwriting system results.
- Information about the property securing the loan, such as construction method, property value, lien priority, the number of individual dwelling units in the property, and additional information about manufactured and multifamily housing.
- Information about the features of the loan, such as additional pricing information, loan term, interest rate, introductory rate period, non-amortizing features, and the type of loan.
- Certain unique identifiers, such as a universal loan identifier, property address, loan originator identifier, and a legal entity identifier for the financial institution.[8]

C. Proposed Modifications to Disclosure and Reporting Requirements

Regulation C requires financial institutions to submit their HMDA data to the appropriate Federal agency by March 1 following the calendar year for which the data are compiled. The Bureau is proposing to require financial institutions that report large volumes of HMDA data to submit their data to the appropriate agency on a quarterly, rather than an annual basis. The Bureau believes that quarterly reporting would allow regulators to use the data to effectuate the purposes of HMDA in a more timely and effective manner, would reduce reporting errors and improve the quality of HMDA data, and may facilitate the earlier release of annual HMDA data to the public.[9]

The Bureau also is proposing to allow HMDA reporters to make their disclosure statements available by referring members of the public that request a disclosure statement to a publicly-available Web site. Currently, a financial institution is required to make its disclosure statement available to the public in its home offices and, in addition, to either make it available in certain branch offices or to post notice of its availability and provide it in response to a written request. The Bureau believes that this proposal will facilitate public access to HMDA data while minimizing burdens to financial institutions.[10]

D. Proposed Modifications To Clarify the Regulation

Financial institutions and other stakeholders have, over time, identified aspects of Regulation C that are unclear or confusing. The Bureau believes that the implementation of the Dodd-Frank Act amendments is an opportunity to address many of these longstanding issues through improvements to the regulatory provisions, the instructions in appendix A, and the staff commentary. Examples of these clarifications include guidance on what types of residential structures are considered dwellings; the treatment of manufactured and modular homes and multiple properties; coverage of preapproval programs and temporary financing; how to report a transaction that involved multiple financial institutions; reporting the action taken

[4] The proposed modifications to institutional coverage are discussed in more detail below in the section-by-section analysis of proposed § 1003.2(g).

[5] Covered loans generally are discussed in more detail below in the section-by-section analysis of proposed § 1003.2(e). Home improvement loans are discussed in more detail below in the section-by-section analysis of proposed § 1003.2(i). Open-end lines of credit and home-equity lines of credit are discussed in more detail below in the section-by-section analyses of proposed §§ 1003.2(o), 1003.4(a)(37), 1003.4(a)(39), and 1003.4(c)(3). Reverse mortgages are discussed in more detail below in the section-by-section analyses of proposed §§ 1003.2(q) and 1003.4(a)(36).

[6] MISMO is the federally registered service mark of the Mortgage Industry Standards Maintenance Organization, a wholly-owned subsidiary of the Mortgage Bankers Association.

[7] The use of data standards, and the MISMO data standards in particular, are discussed in more detail below in part II.B.

[8] The data points the Bureau is proposing to add or modify are discussed in more detail below in the section-by-section analysis of proposed § 1003.4(a).

[9] Quarterly reporting is discussed in more detail below in the section-by-section analysis for proposed § 1003.5(a).

[10] The disclosure statement is discussed in more detail below in the section-by-section analysis for proposed § 1003.5(b).

on an application; and reporting the type of purchaser for a covered loan.[11]

II. Background

A. HMDA's Role in the Mortgage Market

Overview of HMDA and Regulation C

The Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.,* requires certain depository institutions and for-profit nondepository institutions to collect, report, and disclose data about originations and purchases of mortgage loans, as well as mortgage loan applications that do not result in originations (for example, applications that are denied or withdrawn). As originally adopted, HMDA identifies its purposes as providing the public and public officials with information to help determine whether financial institutions are serving the housing needs of the communities in which they are located, and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.[12] Congress later expanded HMDA to, among other things, require financial institutions to report racial characteristics, gender, and income information on applicants and borrowers.[13] In light of these amendments, the Board of Governors of the Federal Reserve System (Board) subsequently recognized a third HMDA purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, which now appears with HMDA's other purposes in Regulation C.[14]

The Bureau's Regulation C, 12 CFR part 1003, implements HMDA. Regulation C currently requires depository institutions (*i.e.,* banks, savings associations, and credit unions) and for-profit nondepository mortgage lending institutions to submit and publicly disclose certain HMDA data if they meet criteria set forth in the rule. Whether a depository institution is required to report and publicly disclose data depends on its asset size, the location of its home and branch offices, the extent to which it engages in residential mortgage lending, and the extent to which the institution or its loans are federally-related. Whether a for-profit nondepository mortgage lending institution is required to report and publicly disclose data depends on its size, the location of its home and branch offices, including the extent of its business in metropolitan statistical areas (MSAs), and the extent to which it engages in residential mortgage lending.

Covered financial institutions are required to report originations and purchases of mortgage loans (home purchase and refinancing) and home improvement loans, as well as loan applications that do not result in originations. The information reported under Regulation C currently includes, among other items: application date; loan or application type, purpose, and amount; property location and type; race, ethnicity, sex, and annual income of the loan applicant; action taken on the loan application (approved, denied, withdrawn, etc.), and date of that action; whether the loan is subject to the Home Ownership and Equity Protection Act of 1994 (HOEPA); lien status (first lien, subordinate lien, or unsecured); and certain loan price information.

Financial institutions report HMDA data to their supervisory agencies on an application-by-application basis using a register format referred to as the loan application register. Institutions must make their loan application registers available to the public, with certain fields redacted to preserve applicants' and borrowers' privacy. At present, the Federal Financial Institutions Examination Council (FFIEC),[15] on behalf of the supervisory agencies, compiles the reported data and prepares an individual disclosure statement for each institution and aggregate reports for all covered institutions in each metropolitan area. These disclosure statements and reports are available to the public. On behalf of the agencies, the FFIEC also annually releases a loan-level dataset containing all reported HMDA data for the preceding calendar year with certain fields redacted to protect the privacy of applicants and borrowers.

History of HMDA's Role in the Mortgage Market

For nearly 40 years, HMDA has provided the public with information about mortgage lending activity within communities throughout the nation. Public officials use the information available through HMDA to develop and allocate housing and community development investments,[16] to respond to market failures when necessary,[17] and to monitor whether financial institutions may be engaging in discriminatory lending practices.[18] The data are used by the mortgage industry to inform business practices,[19] and by

[11] The proposed guidance is discussed throughout the section-by-section analysis.

[12] HMDA section 302(b), 12 U.S.C. 2801(b); *see also* 12 CFR 1003.1(b)(1)(i)–(ii).

[13] Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101–73, section 1211 (''Fair lending oversight and enforcement'' section), 103 Stat. 183, 524–26 (1989).

[14] 54 FR 51356, 51357 (Dec. 15, 1989), *codified at* 12 CFR 1003.1(b)(1).

[15] The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the Federal examination of financial institutions by the Bureau, the Board, the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC), and to make recommendations to promote uniformity in the supervision of financial institutions. In 2006, the State Liaison Committee was added to the Council as a voting member.

[16] As one example of many, in 2008 the City of Albuquerque used HMDA data to characterize neighborhoods as ''stable,'' ''prone to gentrification,'' or ''prone to disinvestment'' for purposes of determining the most effective use of housing grants. *See* City of Albuquerque, Five Year Consolidated Housing Plan and Workforce Housing Plan 100 (2008), *available at http://www.cabq.gov/family/documents/ConsolidatedWorkforceHousingPlan20082012final.pdf.* As another example, Antioch, California, monitors HMDA data, reviews it when selecting financial institutions for contracts and participation in local programs, and supports home purchase programs targeted to households purchasing homes in Census Tracts with low loan origination rates based on HMDA data. *See* City of Antioch, California, Fiscal Year 2012–2013 Action Plan 29 (2012), *http://www.ci.antioch.ca.us/CitySvcs/CDBGdocs/Action%20Plan%20FY12-13.pdf.* Similarly, Lawrence, Massachusetts, identified a need for homebuyer counseling and education based on HMDA data, which showed a high percentage of high-cost loans compared to surrounding communities. *See* City of Lawrence, Massachusetts, HUD Consolidated Plan 2010–2015, at 68 (2010), *http://www.cityoflawrence.com/Data/Sites/1/documents/cd/Lawrence_Consolidated_Plan_Final.pdf.*

[17] For example, under section 2301 of the Housing and Economic Recovery Act of 2008, Public Law 110–289, 122 Stat. 2654 (July 30, 2008), the U.S. Department of Housing and Urban Development (HUD) created the Neighborhood Stabilization Program. Under this program, funds were provided for stabilizing communities that suffered from foreclosures and abandonment. The statute required HUD to swiftly devise a funding formula based on foreclosures, subprime loans, and loans in default or delinquency. HMDA data on loans, and particularly high-cost loans, in communities were used to develop the formula. *See http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_14172.pdf.*

[18] *See, e.g.,* Yana Kunichoff, *Lisa Madigan Credits Reporter with Initiating Largest Discriminatory Lending Settlements in U.S. History* (June 14, 2013), *http://www.chicagonow.com/chicago-muckrakers/2013/06/lisa-madigan-credits-reporter-with-initiating-largest-discriminatory-lending-settlements-in-u-s-history/* (''During our ongoing litigation . . . the Chicago Reporter study looking at the HMDA data for the City of Chicago came out. . . . It was such a startling statistic that I said . . . we have to investigate, we have to find out if this is true. . . . We did an analysis of that data that substantiated what the Reporter had already found. . . . [W]e ultimately resolved those two lawsuits. They are the largest fair-lending settlements in our nation's history.''); Press Release, New York State Office of the Attorney General, *Attorney General Cuomo Obtains Approximately $1 Million For Victims Of Greenpoint's Discriminatory Lending Practices* (July 16, 2008), *http://www.ag.ny.gov/press-release/attorney-general-cuomo-obtains-approximately-1-million-victims-greenpoints* (describing settlement arising from review of HMDA data).

[19] ''I have been analyzing HMDA data for 14 years and believe that HMDA is an invaluable tool to

local communities to ensure that lenders are serving the needs of individual neighborhoods.[20] To maintain the data's usefulness, HMDA and Regulation C have been updated and expanded over time in response to the changing needs of homeowners and evolution in the mortgage market. What is currently a critical source of nationwide home finance information began as a method of empowering neighborhoods by providing visibility into community mortgage lending practices.

Community Deterioration and Access to Mortgage Credit. In the decades that followed World War II, the standard of living sharply declined in many U.S. cities as people left central cities for the suburbs. A significant cause of this decline was the gradual deterioration in the urban housing supply. Congress committed to improving the nation's housing stock in the Housing Act of 1949, which established a goal of ''a decent home and suitable living environment for every American family'' through development and redevelopment of communities and elimination of slums and blighted areas.[21] To achieve this goal, Congress envisioned a partnership between private enterprise, governments, and local public bodies.[22] However, during the 1950s, construction of new housing happened overwhelmingly outside the central cities.[23]

By the 1960s, despite improvements in the housing supply throughout the country, there were neighborhoods and areas within many cities where the housing situation continued to deteriorate.[24] During the 1960s, several efforts were made to improve urban housing. These efforts included the creation of the U.S. Department of Housing and Urban Development (HUD) and its elevation to cabinet-level agency status in 1965.[25] In addition, Congress enacted the Fair Housing Act of 1968, which prohibited discrimination in the sale, rental, or financing of housing.[26] However, by the 1970s it was clear that the lack of credit in urban communities was one of the major factors contributing to the decline in these communities.

Congressional hearings revealed that many financial institutions were unwilling to provide mortgage loans for the purchase of homes in urban areas.[27] In many cases, potential homebuyers were told by their financial institution that financing would not be available for an existing urban home, but a mortgage loan could be provided for a new home in the suburbs.[28] In other cases, financial institutions were willing to provide mortgage loans for homes located in both urban and suburban areas, but the cost of credit for the urban home was significantly higher than that for the suburban home.[29] As a result of these practices, the supply of buyers for urban homes dwindled, weakening the urban real estate market and contributing to a decline in the value of urban homes.

The unavailability of home improvement financing also was a significant problem. Financial institutions generally were unwilling to provide home improvement loans, which tend to be smaller and less risky than home purchase loans, in urban neighborhoods.[30] Some financial institutions adopted policies that prohibited financing secured by homes beyond a certain age or other proxies for year of construction.[31] As a result, urban residents were unable to obtain financing to maintain, repair, or remodel their homes.[32] As these homes fell into disrepair, appraisers under-valued them, potential buyers found them less attractive, and financial institutions viewed them as riskier, thereby contributing to a cycle of neighborhood decline.[33]

While these market failures were generally acknowledged and understood, Congress was unable to determine the extent and severity of the situation.[34] Over the course of several hearings, representatives from industry, communities, and various Federal agencies provided wide-ranging testimony as to the scope of the problem, and these witnesses generally cited a lack of reliable data as an

understand how the mortgage market works in practice. Our HMDA work at [the Mortgage Bankers Association] helps our members reach new customers and develop products and underwriting tools to better serve new and established portions of the market.'' *Home Mortgage Disclosure Act: Newly Collected Data and What It Means, Hearing Before the Subcomm. on Fin. Servs. and Consumer Credit of the H. Comm. on Fin. Servs.,* 109th Cong. (2006) (oral testimony of Douglas G. Duncan, Senior Vice President and Chief Economist, Research and Business Development, Mortgage Bankers Ass'n), *available at http://www.gpo.gov/fdsys/pkg/CHRG-109hhrg31528/html/CHRG-109hhrg31528.htm.*

[20] ''In recent years . . . scores of community groups have used HMDA data to document the emergence and dramatic expansion of the subprime mortgage market and its concentration in minority communities.'' *Home Mortgage Disclosure Act: Newly Collected Data and What It Means, Hearing Before the Subcomm. on Fin. Servs. and Consumer Credit of the H. Comm. on Fin. Servs.,* 109th Cong. 4 (2006) (written testimony of Calvin Bradford, President, Calvin Bradford Associates, Ltd., on behalf of the Nat'l Fair Hous. Alliance), *available at http://archives.financialservices.house.gov/media/pdf/061306cb.pdf.*

[21] Housing Act of 1949, Public Law 81–171, section 2, 63 Stat. 413 (1949).

[22] *Id.*

[23] The National Advisory Commission on Civil Disorders, *The Kerner Report: The 1968 Report of the National Advisory Commission on Civil Disorders* 467 (Pantheon Books, 1988) [hereinafter *The Kerner Report*].

[24] *Id.*

[25] HUD replaced the Housing and Home Finance Agency. Congress elevated the agency to cabinet-level status in order to more effectively coordinate affordable housing and urban renewal programs. Department of Housing and Urban Development Act, Public Law 89–174, section 3, 79 Stat. 667 (1965).

[26] Civil Rights Act of 1968, Public Law 90–284, title VIII, 82 Stat. 73 (1968). Segregation, discrimination, and poverty had prevented minorities from moving to the suburbs and achieving the economic gains and improved housing conditions that other Americans had, and they disproportionately bore the burden of the deteriorating urban housing stock. *See The Kerner Report* at 467.

[27] ''The Committee heard from neighborhood representatives, community leaders and public officials from fifteen major cities in which disinvestment in older neighborhoods is considered a serious problem.'' Comm. on Banking, Hous. and Urban Affairs, report on S. 1281, Home Mortgage Disclosure Act of 1975, S. Rep. 94–187, at 279 (1975).

[28] ''Typically, a potential buyer with a good credit rating attempting to purchase a sound home in an older urban neighborhood often meets a cool reception from local lenders. . . . Conversely, the same buyer finds 90 percent-30 year mortgages plentiful in the adjoining suburbs.'' *Id.* at 280.

[29] ''A [Milwaukee] resident was told by a loan officer that she could get only a 12 year mortgage because of the age of the property and its location. 'Go west of 60th Street and then we can talk 20 to 25 years.' '' *Id.* at 283.

[30] *Id.* at 280.

[31] ''[Baltimore] lending institutions adopted policies related to property that eliminated a large segment of city houses on the market, e.g. loans not available on houses over 20 years old or those which are less than 18 feet wide. By the way, almost two-thirds of [Baltimore] houses were built before 1939, and many . . . are row houses 12, 14, and 16 feet wide.'' *Id.* at 285.

[32] ''Home improvement loans become difficult if not impossible to obtain, causing housing to deteriorate prematurely. Prospective home buyers are encouraged to buy their home in a new suburban development rather than in an urban neighborhood which according to the lending official is on the decline. Existing homeowners begin to panic and sell to speculators.'' Comm. on Banking, Currency and Hous. Report on H.R. 10024, Depository Institutions Amendments of 1975, H. Rep. 94–561, at 117 (1975).

[33] *Id.* ''Given the lack of money to make the necessary repairs, the neighborhood rapidly takes on the characteristics of a slum—severe property maintenance problems, high rate of foreclosures, housing abandonment, not to mention the attendant negative social and economic consequences for the area. Owner/occupants representing good, stable families move out; absentee landlords and speculators move in. The prophecy fulfills itself.'' *Id. See generally* S. Rep. 94–187, at 307.

[34] With respect to home improvement loans: ''Despite intensive efforts to devise a way to measure rehabilitation activity, we have not been successful in developing a feasible system, primarily due to the fact that there is no known way to measure the volume or quality of private rehabilitation efforts.'' H. Rep. 94–561, at 115. With respect to home purchase loans, Congress identified difficulties in analyzing claims regarding disinvestment, which it believed ''illustrate[d] the need for reliable data, which can be obtained only through disclosure.'' S. Rep. 94–187, at 287.

impediment to finding a solution.[35] To address the lack of reliable data, Congress enacted HMDA in 1975.[36] The Board implemented HMDA by promulgating Regulation C in 1976.[37]

As originally enacted and implemented, HMDA applied to depository institutions with over $10,000,000 in assets that made federally related mortgage loans and that were located in standard metropolitan statistical areas.[38] HMDA required the disclosure of the number and dollar amount for both home improvement loans and residential mortgage loans, broken down into a number of categories.[39] Depository institutions were required to make their mortgage loan disclosure statements available to the public for copying and inspection.[40]

Deteriorating urban housing conditions and inadequate private investment led Congress to enact other laws as well. These laws included the Housing and Community Development Act of 1974, which allocated funds to States and units of general local development to address urban conditions,[41] and the Community Reinvestment Act of 1977 (CRA), which was intended to ensure that depository institutions were meeting the credit needs of their communities.[42] In conjunction with laws such as these, HMDA was intended to promote neighborhood stability by empowering communities through information disclosure.

HMDA created a degree of transparency that immediately improved the public's understanding of the relationship between mortgage lending and community stability. The data enabled community groups to understand the magnitude of disinvestment within minority neighborhoods.[43] Studies of the HMDA data by academic researchers demonstrated the extent to which lending disparities existed between communities.[44] Public officials also relied on the HMDA data to study and analyze whether financial institutions were serving the credit needs of their communities.[45] Even with the limited amount of data HMDA provided, the data's disclosure lessened the information asymmetry between industry and the public, which improved the ability of communities to monitor industry and determine whether mortgage lenders were providing loans in a manner that facilitated stable and sustainable neighborhoods.

Individual Discrimination and Market Evolution. Although HMDA improved the public's understanding of the mortgage market, it became evident that critical data elements were missing. The HMDA data did not include information related to demand for mortgage credit or the creditworthiness of individual applicants.[46] This led to many cases where community groups asserted that the HMDA data evidenced community disinvestment, but lenders countered that the data were misleading because they lacked information related to creditworthiness.[47] Several studies conducted during the late 1970s and early 1980s used the HMDA data in conjunction with data obtained from surveys or through the examination process to analyze the relationship between community disinvestment and potential discrimination in mortgage lending.[48] Congress also realized that the data provided were not adequate to fulfill HMDA's statutory goals, and encouraged agency cooperation and combined implementation and enforcement of various statutes with similar goals.[49]

Beginning in the early 1980s, Congress made a number of significant changes to HMDA to expand the types of institutions covered, the data collected, and public access to such data. In 1980, Congress amended HMDA to require the newly established FFIEC to prepare and publish aggregate data tables for each standard MSA.[50] The 1980 amendments also required the Board to prescribe a standard format for HMDA disclosures, which it did in 1982.[51]

While HMDA was successful in helping the public understand mortgage lending discrimination between neighborhoods, events in the late 1980s shifted public attention to discrimination between individual applicants and borrowers. Community groups had argued that individuals within a particular neighborhood were experiencing discrimination during the mortgage lending process. These groups lacked sufficient evidence to prove the extent and severity of the problem, until a series of investigative reports supported their arguments by demonstrating significant racial disparities in mortgage lending between several neighborhoods in both Atlanta and Detroit.[52] At the same time, a

[35] *See* H. Rep. 94–561, at 116.

[36] Public Law 94–200, sections 301–310, 89 Stat. 1124, 1125–28 (1975). HMDA was originally set to expire after four years, but was temporarily extended several times before Congress made it permanent in 1988. Public Law 100–242, section 565, 101 Stat. 1815, 1945 (1988).

[37] 41 FR 23931 (June 14, 1976). The Board also issued interpretations in 1977 to clarify two aspects of the rule. 42 FR 19123 (Apr. 12, 1977).

[38] 41 FR 23931, 23936–38 (June 14, 1976).

[39] *Id.*

[40] *Id.*

[41] Public Law 93–383, section 101, 88 Stat. 633 (1974) (''The Congress finds and declares that the Nation's cities, towns, and smaller urban communities face critical social, economic and environmental problems arising in significant measure from . . . inadequate public and private investment and reinvestment in housing . . . resulting in the growth and persistence of urban slums and blight and the marked deterioration of the quality of the urban environment.'')

[42] 12 U.S.C. 2901–2908. ''The [CRA] reflected the congressional judgment that many banks were neglecting important credit needs within their communities and that regulators' efforts were inadequate to deter banks from continuing to engage in these practices.'' Allen Fishbein, *The Ongoing Experiment with ''Regulation from Below:'' Expanded Reporting Requirements for HMDA and CRA,* 3 Housing Policy Debate 601, 609 (1992).

[43] *See* John Goering and Ron Wienk (eds), *Mortgage Lending, Racial Discrimination and Federal Policy* 10 (1996).

[44] *See, e.g.,* Ira Goldstein & Dan Urevick-Ackelburg, The Reinvestment Fund, *Subprime Lending, Mortgage Foreclosures, and Race: How Far Have We Come and How Far Have We to Go?* 2–3 (Ohio State Univ. Kirwan Institute for the Study of Race and Ethnicity 2008), *http://kirwaninstitute.osu.edu/docs/pdfs/goldstein_trf_paper.pdf.*

[45] *See, e.g.,* Glen B. Canner & Joe M. Cleaver, *The Community Reinvestment Act: A Progress Report,* Fed. Reserve Bulletin, vol. 66, no. 2, 87–96 (Feb. 1980); Robert B. Avery & Thomas M. Buynak, *Mortgage Redlining: Some New Evidence,* 21 Fed. Reserve Bank of Cleveland, Economic Review 18–32 (Summer 1981).

[46] *See* George J. Benston, Fed. Reserve Bank of Boston, *Mortgage Redlining Research: A Review and Critical Analysis Discussion,* 12 Journal of Bank Research 144 (Oct. 1979).

[47] *See* Mark S. Sniderman, Fed. Reserve Bank of Cleveland, *Economic Commentary: Issues in CRA Reform* (Mar. 1991).

[48] *See* Harold Black, Robert L. Schweitzer, & Lewis Mandell, *Discrimination in Mortgage Lending,* 68 American Econ. Review 186, 189 (May 1978); Robert Schafer & Helen F. Ladd, MIT-Harvard Joint Center for Urban Studies, *Discrimination in Mortgage Lending* 287–300 (1981); Thomas A. King, New York Univ., *Discrimination in Mortgage Lending: A Study of Three Cities* 50 (1981).

[49] *See* Staff of S. Comm. on Banking, Hous., & Urban Affairs, 95th Cong., *Second Report on Enforcement of the Equal Credit Opportunity and Home Mortgage Disclosure Acts* 2–3 (Comm. Print 1977) (''The committee's principal recommendation called for promulgation of regulations to establish . . . the requirement that lenders keep records indicating the race and sex of loan applications. . . . The committee called for a thorough periodic review by examiners of a lender's pattern of mortgage loans, making use of both racial and sex notations and the data provided under the Home Mortgage Disclosure Act.''). The Committee also supported development of an ''objective test for discrimination that can be inferred from a comparison of the racial and economic characteristics of successful and unsuccessful loan applicants.'' *Id.* at 4.

[50] Housing and Community Development Act of 1980, Public Law 96–399, section 340, 94 Stat. 1614, 1657–58 (1980).

[51] 47 FR 750 (Jan. 7, 1982).

[52] *See* Bill Dedman, *The Color of Money,* Atlanta-Journal Constitution, May 1–4, 1988; David Everett et al., *The Race for Money,* Detroit Free Press, July 24–27, 1988; Bill Dedman, *Blacks Turned Down for*

Federal Reserve Bank of Boston study that cross-referenced HMDA data, census data, and individual deed transfer data confirmed that similar racial disparities existed in the Boston mortgage market.[53] These major reports and studies confirmed the arguments advanced by community groups and fair housing advocates that HMDA needed to be updated to improve the publicly available information about lending practices.[54]

These revelations coincided with the savings and loan crisis of the late 1980s, during which many depository institutions throughout the country failed.[55] Concerns over mortgage lending discrimination, coupled with the need to respond to the savings and loan crisis, motivated Congress to amend HMDA significantly.[56] In 1988, Congress amended HMDA to expand institutional coverage to include mortgage banking subsidiaries of bank holding companies and savings and loan holding companies, and savings and loan service corporations that originate or purchase mortgage loans.[57] As amended, HMDA applied to depository institutions, mortgage banking subsidiaries of holding companies, and savings and loan service corporations with over $10 million in assets and offices in MSAs or primary MSAs.

One year later, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) fundamentally changed HMDA in several other ways.[58] FIRREA amended HMDA to cover certain mortgage lenders that are not affiliated with depository institutions or holding companies.[59] To provide greater transparency into the mortgage lending process, HMDA was amended to require disclosure, on a transaction-level basis, of data on applications received in general, as well as data on the race, gender, and income of individual applicants and borrowers.[60] These changes marked a substantial shift in the statutory approach to the public disclosure of mortgage market data.[61]

This shift from aggregate to transaction-level reporting, and from limited to more detailed loan data, substantially increased the usefulness of the HMDA data. Studies conducted using the expanded HMDA data confirmed that, in many cases, an applicant's race alone influenced whether the applicant was denied credit.[62] These studies led the Federal financial institution regulators to announce that the new HMDA data would be used to determine whether financial institutions were fulfilling their fair lending obligations.[63] While the new data strengthened fair lending oversight and enforcement, it also had a powerful effect on the relationship between communities and financial institutions. Community groups used the data to monitor lending within their communities and enter into agreements with financial institutions to ensure that the local needs were being served in a responsible manner.[64] By increasing the degree of transparency in the mortgage market, the FIRREA amendments to HMDA dramatically improved the public's understanding of how mortgage lending decisions affected both communities and individual applicants and borrowers.

Market Evolution, Subprime Lending, and Its Aftermath. After the FIRREA amendments, three major developments prompted rapid changes in the mortgage industry. First, the deregulation of the banking industry in 1994 led to a substantial number of bank mergers and reorganizations.[65] Second, the expansion of the secondary market increased the availability of mortgage loans while enabling lenders to offer new types of mortgage loans to a wider range of borrowers.[66] Third, advances in mortgage lending technology enabled the mortgage market to move from lengthy, manual origination processes to less burdensome and more efficient, computerized processes.[67] These developments increased the availability of mortgage loans to all borrowers, but they also increased the sophistication of lending institutions and the complexity of the mortgage lending process.

HMDA data, coupled with amendments to the CRA, helped communities engage with financial institutions to address issues stemming from deregulation. Community groups used HMDA data to challenge proposed bank mergers, and many depository institutions developed lending programs dedicated to addressing the needs of their communities.[68] However, HMDA

Home Loans from S&Ls Twice as Often as Whites, Atlanta Journal-Constitution, Jan. 22, 1989.

[53] ''The data show that mortgages were originated on 6.9 percent of separately owned structures and condominiums in majority white neighborhoods during an average year between 1982 and 1987. The figure drops to 3.5 percent for majority black neighborhoods and to 2.7 percent for neighborhoods with populations that were more than 80 percent black.'' Katharine Bradbury et al., *Geographic Patterns of Mortgage Lending in Boston, 1982–1987,* New Eng. Econ. Rev., Sept./Oct. 1989, at 23.

[54] ''HMDA proponents believed that this new research provided the 'smoking gun' needed to make the case for further changes to HMDA and the need for enhanced emphasis on fair lending enforcement.'' Ren Essene & Allen Fishbein, Harvard Univ. Joint Center for Hous. Studies, *The Home Mortgage Disclosure Act at Thirty-Five: Past History, Current Issues* 17 (Aug. 2010).

[55] *See* FDIC, *History of the Eighties—Lessons for the Future: Volume I: An Examination of the Banking Crises of the 1980s and Early 1990s,* at 241 (Dec. 1997), *available at www.fdic.gov/bank/historical/history/vol1.html.*

[56] *See* Ren Essene & Allen Fishbein, Harvard Univ. Joint Center for Hous. Studies, *The Home Mortgage Disclosure Act at Thirty-Five: Past History, Current Issues* 17–18 (Aug. 2010).

[57] Public Law 100–242, section 565, 101 Stat. 1815, 1945 (1988); 53 FR 31683 (Aug. 19, 1988) (implementing these amendments and making other revisions to Regulation C).

[58] Public Law 101–73, section 1211, 103 Stat. 183, 524–26 (1989).

[59] *Id.* The Federal Deposit Insurance Corporation Improvement Act of 1991 subsequently authorized the Board, in consultation with HUD, to develop a new exemption standard for nondepository mortgage lenders that is comparable to the exemption for depository institutions with $10 million or less in total assets. Public Law 102–242, section 224, 105 Stat. 2236, 2307 (1991). In 1992, the Board adopted a standard that expanded coverage of nondepository institutions by providing that a nondepository mortgage lender with an office in an MSA would be covered if it met either an asset-size test or a lending activity test. 57 FR 56963 (Dec. 2, 1992).

[60] Public Law 101–73, section 1211, 103 Stat. 183, 524–26 (1989); *see* Allen J. Fishbein, *The Ongoing Experiment with ''Regulation from Below:'' Expanded Reporting Requirements for HMDA and CRA,* 3 Housing Policy Debate 601, 615–16 (1993).

[61] The Board implemented these changes in a final rule later that year. 54 FR 51356 (Dec. 15, 1989).

[62] *See* Alicia H. Munnell, et al., *Mortgage Lending in Boston: Interpreting the HMDA Data,* American Econ. Review. Fed. Reserve Bank of Boston Working Paper 92–7, at 22 (1992); James H. Carr & Isaac F. Megbolugbe, *The Federal Reserve Bank of Boston: Study on Mortgage Lending Revisited,* 4 Journal of Housing Research 2, 277 (1993).

[63] *See e.g.,* Richard D. Marisco, *Shedding Some Light on Lending: The Effect of Expanded Disclosure Laws on Home Mortgage Marketing, Lending, and Discrimination in the New York Metropolitan Area,* 27 Fordham Urb. L. J. 481, 506 (1999); Bd. of Governors of the Fed. Reserve Sys., Interagency Policy Statement on Fair Mortgage Lending Practices, Oct. 9, 1992, *available at http://www.federalreserve.gov/bankinforeg/interagencystatement.htm*; Interagency Task Force on Fair Lending Policy Statement on Discrimination in Lending, 73 FR 18266 (Apr. 15, 1994).

[64] *See* Adam Rust, Fed. Reserve Bank of Boston and Fed. Reserve Bank of San Francisco, *A Principle-Based Redesign of HMDA and CRA Data in Revisiting the Community Reinvestment Act: Perspectives on the Future of the Community Reinvestment Act* 179 (Feb. 2009).

[65] *See* Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Public Law 103–328, 108 Stat. 2338.

[66] *See* Patricia A. McCoy & Elizabeth Renuart, Harvard Univ. Joint Center for Hous. Studies, *The Legal Infrastructure of Subprime and Nontraditional Home Mortgages* 8–10 (Feb. 2008).

[67] U.S. Fin. Crisis Inquiry Comm'n, *The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States* 72 (Official Gov't ed. 2011), *available at http://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf.*

[68] *See* Ben Bernanke, Chairman, Fed. Reserve Bd. (Speech), ''The Community Reinvestment Act: Its Evolution and New Challenges,'' Mar. 30, 2007, *available at http://www.federalreserve.gov/newsevents/speech/bernanke20070330a.htm.*

data were not sufficient to help communities fully understand and address one major development that grew out of increased securitization and technological advances—the expansion of the subprime market. Between the mid-1990s and the mid-2000s, subprime lending dramatically increased.[69] While subprime lending increased access to credit to many borrowers and in many communities, studies suggested that many subprime lenders offered loans in a predatory and discriminatory manner.[70] Studies conducted by Federal agencies in the early 2000s concluded that there were significant concerns about discrimination in the subprime market, but that the HMDA data did not provide enough transparency to help communities and public officials understand the scope of the problem and devise effective solutions.[71]

The Board responded by amending Regulation C to provide greater visibility into the subprime market. The Board initiated its last comprehensive review of Regulation C through an advance notice of proposed rulemaking in 1998[72] and notices of proposed rulemakings in 2000[73] and 2002,[74] which culminated in final rules promulgated in 2002.[75] Among other things, the Board's 2002 revisions to Regulation C:

- Required financial institutions to report pricing information for higher-priced mortgage loans;
- Required financial institutions to identify loans subject to HOEPA;
- Required financial institutions to report denials of applications received through certain preapproval programs and permitted financial institutions to report requests for preapproval that were approved but not accepted;
- Expanded the coverage of nondepository financial institutions by adding a loan origination dollar-volume threshold of $25 million to the loan-percentage test;
- Required financial institutions to report whether a loan involves a manufactured home; and
- Required financial institutions to ask applicants their ethnicity, race, and sex in applications taken by telephone and conform the collection of data on ethnicity and race to standards established by the Office of Management and Budget (OMB) in 1997.

The 2002 revisions to Regulation C focused on the data elements that are required rather than the institutions or transactions that are covered. In adopting the revisions, the Board considered changes that had occurred in the home mortgage market, including the growth of subprime lending. The revisions improved the usefulness of the HMDA data, especially with respect to fair lending concerns, but adding a limited number of loan pricing variables only modestly addressed the need for increased transparency in the subprime mortgage market.[76]

However, discrimination was only one of the problems caused by the predatory practices employed by certain subprime lenders. Evidence demonstrated that predatory subprime lending in the late 1990s resulted in high rates of delinquency and foreclosure, threatening the stability of many communities.[77] This threat only increased as underwriting standards deteriorated throughout the 2000s. But when communities needed more granular loan data the most, HMDA did not provide it. As a result, communities could not understand the magnitude of the risk to which they were exposed. Neither could many community groups or public officials, who could not afford to purchase the detailed loan datasets available to the financial industry.[78]

Communities throughout the nation were devastated when the housing and financial markets collapsed in 2007. The financial crisis resulted in the loss of nearly $7 trillion in household wealth, and an unprecedented number of homeowners faced foreclosure.[79] Federal, State, and local officials created relief programs intended to assist distressed homeowners, prevent a complete collapse of local housing markets, and to assist communities impacted by foreclosure and abandonment.[80] While the crisis initially affected subprime borrowers, the problems eventually extended to the entire mortgage market.[81] Both prime and subprime borrowers experienced high levels of delinquency and foreclosure, which destabilized communities across the country.[82] In the wake of the unprecedented number of foreclosures, communities were forced to grapple with numerous abandoned homes, properties stripped of fixtures, and vandalism, which contributed to the downward spiral in neighborhood property values.[83] Furthermore, although the crisis affected homeowners across the nation,

[69] ''From essentially zero in 1993, subprime mortgage originations grew to $625 billion by 2005, one-fifth of total mortgage originations in that year, a whopping 26 percent annual rate of increase over the whole period.'' Edward M. Gramlich, Urban Institute and Fed. Reserve Bank of Kansas City, *Booms and Busts: The Case of Subprime Mortgages* 107 (Aug. 31, 2007).

[70] Allen Fishbein & Harold Bunce, HUD, *Subprime Market Growth and Predatory Lending,* Hous. Policy in the New Millennium 274–76 (2000), *http://www.huduser.org/publications/pdf/brd/13fishbein.pdf.*

[71] ''While HMDA data have been a crucial tool allowing policy makers, regulators and the public to understand mortgage lending patterns, additional data not now required to be reported would more completely describe mortgage markets—the subprime market, in particular. Greater transparency in this market would promote more informed policy making and regulation, and may itself help to improve practices of lenders.'' HUD, U.S. Dep't of Treas., Curbing Predatory Home Mortgage Lending: A Joint Report 100 (June 2000), *http://archives.hud.gov/reports/treasrpt.pdf.*

[72] 63 FR 12329 (Mar. 12, 1998).

[73] 65 FR 78656 (Dec. 15, 2000).

[74] 67 FR 7252 (Feb. 15, 2002).

[75] 67 FR 7222 (Feb. 15, 2002); 67 FR 30771 (May 8, 2002); 67 FR 43218 (June 27, 2002).

[76] *See* Patricia A. McCoy, *The Home Mortgage Disclosure Act: A Synopsis and Recent Legislative History,* 29 Journal of Real Estate Research, no. 4 at 388 (2007).

[77] ''The growing incidence of abusive practices in a segment of the mortgage lending market has been stripping borrowers of home equity and threatening families with foreclosure, destabilizing the very communities that are beginning to enjoy the fruits of our Nation's economic success.'' Allen Fishbein & Harold Bunce, HUD, *Subprime Market Growth and Predatory Lending,* Hous. Policy in the New Millennium 278 (2000), *http://www.huduser.org/publications/pdf/brd/13fishbein.pdf.* ''In the three markets with data available on trends in foreclosures over time, it was found that foreclosures by subprime lenders grew sharply during the 1990s even as foreclosures by other lenders declined or grew at a much more moderate pace.'' Harold L. Bunce et al., HUD, *Subprime Foreclosures: The Smoking Gun of Predatory Lending?* 268 (2000).

[78] ''HMDA is a limited data set for groups without financial resources to pay for better information. A set of data providers . . . buy loan-level home mortgage data and then repackage the data for consumption by other lenders, analysts, and academics. Some nonprofit groups buy this information, but for the most part, it is too expensive for them.'' Adam Rust, Fed. Reserve Bank of Boston and Fed. Reserve Bank of San Francisco, *A Principle-Based Redesign of HMDA and CRA Data* in *Revisiting the Community Reinvestment Act: Perspectives on the Future of the Community Reinvestment Act* 181 (Feb. 2009), *http://www.frbsf.org/community-development/files/revisiting_cra.pdf.*

[79] *See The U.S. Housing Market: Current Conditions and Policy Conditions* 1 (Fed. Reserve Bd. White Paper Jan. 4, 2012), *http://www.federalreserve.gov/publications/other-reports/files/housing-white-paper-20120104.pdf.*

[80] For example, the U.S. Department of the Treasury's Hardest Hit Fund provides funds for homeownership stabilization programs in Alabama, Arizona, California, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, Nevada, New Jersey, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, and Washington, DC. *http://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/hhf/Pages/Program-Purpose-and-Overview.aspx. See also supra* note 17.

[81] *See* Cong. Budget Office, Options for Responding to Short-Term Economic Weakness 21–22 (Jan. 2008), *available at http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/89xx/doc8916/01-15-econ_stimulus.pdf.*

[82] *See* Joint Center for Hous. Studies Harvard Univ., The State of the Nation's Housing 2010, at 19 (2010), *http://www.jchs.harvard.edu/research/publications/state-nations-housing-2010.*

[83] *See* Fed. Reserve Bank of Cleveland, *Facing the Foreclosure Crisis in Greater Cleveland: What Happened and How Communities are Responding* 13–14 (June 2010).

a disproportionate share of wealth was lost by minority and low-income households.[84]

Communities and public officials used HMDA data, including the data on subprime lending, to identify at-risk neighborhoods and to develop foreclosure relief and homeownership stabilization programs.[85] However, the limited data points reported under HMDA presented several challenges for public officials attempting to create effective and responsive relief programs.[86] In some cases, cities and counties were able to purchase mortgage data from commercial providers to complement the HMDA data and obtain a more complete picture of the risks posed to their communities.[87] To begin addressing the need to improve publicly available mortgage market data, Congress amended HMDA and the Board revised Regulation C shortly after the mortgage crisis began. Specifically, in 2008, the Board revised the rules for reporting price information on higher-priced mortgage loans.[88] These revisions conformed Regulation C requirements to the definition of ''higher-priced mortgage loan'' adopted by the Board under Regulation Z in July 2008.[89]

At the same time, Congress began preparing a legislative response to the financial crisis.[90] In 2010, Congress amended HMDA in the Dodd-Frank Act, which also transferred HMDA rulemaking authority and other functions from the Board to the Bureau.[91] Among other changes, the Dodd-Frank Act expands the scope of information relating to mortgage applications and loans that must be compiled, maintained, and reported under HMDA. New data points include the age of loan applicants and mortgagors, information relating to the points and fees payable at origination, the difference between the annual percentage rate (APR) associated with the loan and a benchmark rate or rates for all loans, the term of any prepayment penalty, the value of real property to be pledged as collateral, the term of the loan and of any introductory interest rate for the loan, the presence of contract terms allowing non-amortizing payments, the origination channel, and the credit scores of applicants and mortgagors.[92] The Dodd-Frank Act also authorizes the Bureau to require, ''as [it] may determine to be appropriate,'' a unique identifier that identifies the loan originator, a universal loan identifier, and the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral for the mortgage loan.[93] The Dodd-Frank Act also provides the Bureau with the authority to require ''such other information as the Bureau may require.'' [94]

While the Dodd-Frank Act added new reporting requirements that will increase the level of transparency in the mortgage market, many argue that more publicly available information is needed to help inform communities of lending practices that affect local economies and may endanger neighborhood stability.[95] The Board convened public hearings in 2010 to gather feedback on how to improve the HMDA data. To ensure that HMDA continues to empower communities by providing transparency into mortgage lending practices, the Bureau believes that the HMDA data must be updated to address the informational shortcomings exposed by the financial crisis, to meet the needs of homeowners, potential homeowners, and neighborhoods throughout the nation, and to reflect changes in business practices and the technological evolution of the mortgage market.

B. Mortgage Technology and Data Standards

As discussed above, Congress made major amendments to HMDA in the Dodd-Frank Act, including specifying new data points for collection and providing the Bureau with broad authority to, among other things, require the collection of other data points and change the format and submission requirements for HMDA reporting. The collection and reporting of improved loan-level mortgage data has drawn strong interest from both market participants and regulators in the wake of the financial crisis. In light of its authorities, the Bureau has investigated potential uses of and alignments with industry data standards as a means to improve the quality of HMDA data that is collected and reported, and to reduce the processing and compliance costs on financial institutions.

Federal policy strongly favors agency use of voluntary consensus standards, and reliance on appropriate existing standards would allow the Bureau to draw on the expertise and resources of other data standards developers to serve the public interest.[96] In particular, reliance on existing voluntary consensus standards would be consistent with the National Technology Transfer and Advancement Act of 1995 [97] and OMB Circular A–119,[98] which direct Federal agencies to use such standards in lieu of government-unique standards except where inconsistent with law or otherwise impractical. The Office of Financial Research within the U.S. Department of the Treasury has stated that, for the financial services market, appropriate data standards would provide data transparency, comparability, and quality, and also promote sound risk management by the industry by reducing costs, fostering automation, facilitating the aggregation of data from disparate sources, and enabling the end-to-end tracking of a financial transaction.[99] As discussed further below, the Bureau believes that HMDA compliance and data submission can be made easier, and HMDA data quality improved, by aligning the requirements of Regulation C to the extent practicable

[84] *See supra* note 82.

[85] *See, e.g.,* Hearing Before the Federal Reserve Board on Regulation C on Implementing the Home Mortgage Disclosure Act of 1975 (2010) (testimony of Claudia Monterrosa, Director, Policy & Planning, Los Angeles Housing Department, City of Los Angeles), *available at http://www.federalreserve.gov/communitydev/files/monterrosa.pdf. See also supra* note 17.

[86] *Id.*

[87] For example, the Atlanta Regional Commission and the Office of University-Community Partnerships at Emory University used the HMDA data and a purchased dataset to understand the full scope of the properties at risk of foreclosure in the greater Atlanta area. *See* G. Thomas Kingsley et al., Urban Institute, *Addressing the Foreclosure Crisis: Action-Oriented Research in Three Cities* 17–18 (2009), *http://www.urban.org/publications/412001.html.*

[88] 73 FR 63329 (Oct. 24, 2008).

[89] *Id.* at 63331; 73 FR 44522 (July 30, 2008).

[90] *See* Mortgage Reform and Anti-Predatory Lending Act of 2007, H.R. 3915, 110th Cong.; H.R. Rep. No. 110–441 (2007); Mortgage Reform and Anti-Predatory Lending Act, H.R. 1728, 111th Cong. (2009); H.R. Rep. No. 111–94 (2009).

[91] Public Law 111–203, 124 Stat. 1376, 1980, 2035–38, 2097–101 (2010). In 2010, the Board also conducted public hearings on potential revisions to Regulation C, which are discussed below.

[92] Dodd-Frank Act section 1094(3), *amending* HMDA section 304(b), 12 U.S.C. 2803(b).

[93] *Id.*

[94] *Id.*

[95] See part III.A for a discussion of several public hearings conducted by the Board in 2010, during which many participants requested that additional information be made publicly available through HMDA.

[96] *See* Administrative Conference of the United States Recommendation 2011–5 (adopted December 8, 2011), at 1.

[97] National Technology Transfer and Advancement Act, Public Law 104–113 (1996), 110 Stat. 775, 783, 15 U.S.C. 272 note.

[98] ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' *http://www.whitehouse.gov/omb/circulars_a119/.* OMB Circular A–119 defines ''voluntary consensus standards'' to mean standards created by organizations whose processes provide attributes of openness, balance, due process, an appeal, and decisionmaking by general agreement.

[99] *See* Dept. of Treas. Off. of Fin. Research, 2012 *Annual Report to Congress,* ''*Chapter 5: Promoting Data Standards,*'' 107, *http://www.treasury.gov/initiatives/wsr/ofr/Documents/OFR_Annual_Report_071912_Final.pdf.*

with existing industry standards for collecting and transmitting mortgage data.

Currently, HMDA data are submitted in the loan application register format, consistent with the instructions in appendix A to Regulation C.[100] The data points reported on each loan application register entry are defined by Regulation C, its appendices, and commentary.[101] Financial institutions also seek further information in other materials.[102] Financial institutions submit the data in an electronic, machine-readable format that conforms to the loan application register format, except for financial institutions that report 25 or fewer entries, which may submit their loan application register entries in paper format.[103]

Financial institutions maintain records of mortgage loan applications and originations in many forms and in many systems outside of those used for HMDA reporting. In many cases, these systems use or define data points in ways that differ from Regulation C requirements. As a result, those systems are not directly compatible with the HMDA loan application register format, so that financial institutions have to use additional software and modify data in existing systems in order to submit HMDA data in the proper format.

The Bureau believes that the burden associated with Regulation C compliance and data submission can be reduced by aligning the requirements of Regulation C to the extent practicable with existing industry standards for collecting and transmitting data on mortgage loans and applications. The Bureau believes that promoting consistent data standards for both industry and regulatory use has benefits for market efficiency, market understanding, market oversight, and improved data quality.[104] In light of these considerations, the Bureau is proposing to align the HMDA data requirements, to the extent practicable, with the widely used Mortgage Industry Standards Maintenance Organization (MISMO) standards for residential mortgages, including the Uniform Loan Delivery Dataset (ULDD) that is used in the delivery of loans to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the government-sponsored entities (GSEs)).

MISMO, a wholly owned non-profit subsidiary of the Mortgage Bankers Association, has developed an extensive set of data standards for electronic delivery of loan-level mortgage data.[105] MISMO's mission includes: ''Fostering an open process to develop, promote, and maintain voluntary electronic commerce procedures and standards for the mortgage industry.'' [106] As part of MISMO's standardization efforts, it has developed an XML architecture for mortgage data and a data dictionary to provide data point names, definitions, and enumerations.[107] The mortgage industry has been increasingly adopting the MISMO data standard since its inception and this development has spurred the interest of Federal regulators in MISMO as well.

When the Federal Housing Finance Agency (FHFA) assumed oversight of the GSEs, it mandated that they align to the MISMO data standard. The FHFA directed the GSEs to develop a Uniform Mortgage Data Program (UMDP) to enhance the accuracy and quality of mortgage loan data delivery to each GSE.[108] A key component of the UMDP is the ULDD, which refers to MISMO to identify the data points and the data delivery format required in connection with the delivery of single-family loans to each GSE.[109] As of July 23, 2012, all loans delivered to the GSEs have been required to meet ULDD requirements. Given that a majority of mortgages originated in 2013 conformed to GSE guidelines—and that a large segment of the market sells at least some of their originated loans to the GSEs directly or indirectly—a significant portion of the market is already operating in accordance with the MISMO data standard.[110]

The Bureau recognizes that not every mortgage industry member would support alignment of the HMDA data requirements with MISMO/ULDD data standards—particularly small financial institutions that do not sell loans to the GSEs or that conduct only portfolio lending. Financial institutions that do not currently use the MISMO/ULDD data standards may have reservations about the alignment of the HMDA data requirements with such industry standards. However, the Bureau believes that the efficiencies achieved by aligning HMDA data with widely used industry data standards justify potential burdens and that the efficiencies will grow over time. Aligning with MISMO/ULDD data standards means relying on uniform data standards that are already familiar to financial institutions and data vendors. A HMDA reporter or data vendor using MISMO for business purposes would be able to use the same standard for its HMDA submission, thereby reducing the resources required to translate data into a different standard, such as the particular government standards currently used only for purposes of HMDA compliance. In addition, the Bureau believes that grounding HMDA in the common vocabulary and data standards of the industry will continue to reduce burdens should the need arise to modify Regulation C in the future. Alignment with MISMO/ULDD is also consistent with the policies discussed above that encourage use of voluntary consensus standards by Federal agencies.

C. Applicant and Borrower Privacy

As discussed above, HMDA's purposes are to provide the public and public officials with sufficient information to enable them to determine whether institutions are serving the housing needs of the communities and neighborhoods in which they are located, to assist public officials in distributing public sector investments in a manner designed to improve the private investment environment, and to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. Today, HMDA data are the preeminent data source for regulators, researchers, economists, industry, and advocates

[100] 12 CFR part 1003, App. A.

[101] 12 CFR part 1003.

[102] *E.g.,* FFIEC, A Guide to HMDA Reporting: Getting it Right!; FFIEC, *Home Mortgage Disclosure Act Regulatory and Interpretive FAQs* [hereinafter FFIEC FAQs], *available at http://www.ffiec.gov/hmda/.*

[103] Comment 5(a)–2.

[104] The Department of Treasury's Office of Financial Research has identified the lack of consistent data standards as a key source of risk during the recent financial crisis, and has noted the benefits of consistent data standards for both industry and regulators. *Supra* note 99.

[105] MISMO is an all-volunteer non-profit organization governed by a committee elected from its more than 150 subscribers, which include mortgage bankers, lenders, servicers, vendors, service providers, and the GSEs. *See http://www.mismo.org/AboutMISMO.*

[106] *About MISMO, http://www.mismo.org/AboutMISMO.*

[107] XML is an open standard developed, maintained, and updated by the World Wide Web Consortium. *See http://www.w3.org/standards/xml/.* An enumeration is a value associated with the defined data point. An example in the current HMDA data is the enumeration for ''loan originated'' within the data point of ''action taken.''

[108] Federal Housing Finance Agency, Fannie Mae and Freddie Mac Launch Joint Effort to Improve Loan and Appraisal Data Collection (May 24, 2010), *available at http://fhfa.gov/Media/PublicAffairs/Pages/Fannie-Mae-and-Freddie-Mac-Launch-Joint-Effort-to-Improve-Loan-and-Appraisal-Data-Collection.aspx.*

[109] *See* Fannie Mae, Uniform Loan Delivery Dataset, *https://www.fanniemae.com/singlefamily/uniform-loan-delivery-dataset-uldd*; Freddie Mac, Uniform Loan Delivery Dataset, *http://www.freddiemac.com/singlefamily/sell/uniform_delivery.html.*

[110] *See* Inside Mortgage Fin., *Mortgage Originations by Product,* Inside Mortgage Finance Newsletter, Issue 2014:04 (Jan. 31, 2014).

analyzing the mortgage market both for HMDA's purposes and for general market monitoring. In implementing HMDA to effectuate its purposes, the appropriate protection of applicant and borrower privacy in light of the goals of the statute is a significant priority for the Bureau. The Bureau is mindful that privacy concerns may arise both when financial institutions compile and report data to the Bureau and other agencies and when HMDA data are disclosed to the public. The Bureau has considered both types of potential concerns in developing this proposal, and it continues to assess the implications for applicant and borrower privacy of the public disclosure of HMDA data both by financial institutions and by Federal agencies.

Compiling and Reporting of HMDA Data

Financial institutions collect various types of information from consumers in the course of processing loan applications. To promote HMDA's goals, HMDA and Regulation C require financial institutions to compile and report to the Bureau and other agencies some of this information and other information obtained or generated concerning the application or loan. As discussed above, the Dodd-Frank Act both expanded the scope of information that financial institutions must compile and report and authorized the Bureau to require financial institutions to compile and report additional data. The Bureau has considered applicant and borrower privacy in developing its proposal to implement the Dodd-Frank amendments and otherwise amend Regulation C. The Bureau's proposals are intended to ensure that data compiled and reported by financial institutions fulfill HMDA's purposes while appropriately protecting applicant and borrower privacy.

During the Small Business Review Panel process,[111] some small entity representatives expressed concerns about the privacy implications of reporting certain current and proposed HMDA data.[112] Several small entity representatives suggested that applicant and borrower age and credit score, two new data points added to HMDA by the Dodd-Frank Act, should be reported to the Bureau and other appropriate agencies in ranges, rather than exact values, to mitigate privacy concerns.[113] The Small Business Review Panel recommended that the Bureau evaluate ways to address any privacy risks that may be created by the reporting of HMDA data to the Bureau and other agencies.[114] Consistent with this recommendation, the Bureau's consideration of applicant and borrower privacy in developing this proposal has included consideration of the format in which current and proposed HMDA data should be reported. The Bureau's proposal simultaneously seeks to address any potential privacy risks that may be created by the reporting of HMDA data to the Bureau and other agencies to ensure that the data are reported in a format that is useful in fulfilling HMDA's purposes, that avoids imposing undue burden on financial institutions or increasing the risk of errors in reporting; and that aligns to the extent practicable with existing industry standards for collecting and transmitting mortgage data. The Bureau seeks comment on alternatives to addressing any potential risks to privacy interests created by the reporting of HMDA data to the Bureau and other agencies, including the impact of such alternatives on the utility of the data, on burden to financial institutions and risks of errors in reporting, and on alignment with existing industry standards for transmitting mortgage data. As discussed below, the Bureau's assessment of any potential risks to privacy interests created by the public disclosure of HMDA data is ongoing.

The Bureau also has received feedback from industry expressing concern about the security of the data to be reported under this proposal during its submission. As part of its efforts to improve and modernize HMDA operations, the Bureau is considering various improvements to the HMDA data submission process, including further advancing encryption if necessary to protect the security of HMDA data to be reported under this proposal.

Disclosures of HMDA Data

As discussed above, HMDA is a disclosure statute. To fulfill HMDA's purposes, the types of data a financial institution is required to compile and report under HMDA and Regulation C have been expanded since the statute's enactment in 1975, and the formats in which HMDA data have been disclosed to the public also have evolved. At present, HMDA and Regulation C require data to be made available to the public in both aggregate and loan-level formats. First, each financial institution must make its ''modified'' loan application register available to the public, with three fields deleted to protect applicant and borrower privacy.[115] Each financial institution must also make available a disclosure statement prepared by the FFIEC that shows the financial institution's HMDA data in aggregate form.[116] In addition, the FFIEC makes available disclosure statements for each financial institution[117] as well as aggregate reports for each MSA and metropolitan division (MD) showing lending patterns by certain property and applicant characteristics.[118] Since 1991, on behalf of the agencies receiving HMDA data, the FFIEC also has released annually a loan-level dataset containing all reported HMDA data for the preceding calendar year. To reduce the possibility that data users could identify particular applicants or borrowers in these data, the same three fields that are deleted from the modified loan application register that financial institutions make available are deleted from this release.[119]

The Dodd-Frank Act amendments to HMDA added new section 304(h)(1)(E), which directs the Bureau to develop regulations, in consultation with other appropriate agencies, that ''modify or

[111] The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), as amended by section 1100G(a) of the Dodd-Frank Act, requires the Bureau to convene a Small Business Review Panel before proposing a rule that may have a substantial economic impact on a significant number of small entities. *See* Public Law 104–121, tit. II, 110 Stat. 847, 857 (1996) (as amended by Public Law 110–28, section 8302 (2007)). As discussed in part III.C below, the Bureau convened a Small Business Review Panel concerning this proposal in February 2014.

[112] *Final Report of the Small Business Review Panel on the CFPB's Proposals Under Consideration for the Home Mortgage Disclosure Act (HMDA) Rulemaking* (Apr. 24, 2014) [hereinafter Small Business Review Panel Report], *http://files.consumerfinance.gov/f/201407_cfpb_report_hmda_sbrefa.pdf* at 24 (loans made to financial institutions' employees), 26 (loan originator identifier, parcel identifier), 27–28 (age, credit score, debt-to-income ratio), 30–31 (property value, total points and fees, interest rate), 35 (data disclosed on the modified loan application register), 41 (combined loan-to-value).

[113] *See* Small Business Review Panel Report at 27, 40. Small entity representatives suggested that age could be reported in ranges (*e.g.,* 20–49, 50–62, and 63 and up). *Id.* at 27.

[114] *See* Small Business Review Panel Report at 40.

[115] Section 1003.5(c); HMDA section 304(j)(2)(B). Section 1003.5(c) requires that, before making its loan application register available to the public, a financial institution must delete three fields to protect applicant and borrower privacy: Application or loan number, the date that the application was received, and the date action was taken.

[116] Section 1003.5(b); HMDA section 304(k).

[117] Section 1003.5(f); HMDA section 304(f).

[118] Section 1003.5(f); HMDA section 310.

[119] The agencies first released loan-level HMDA data in October 1991. In announcing that the loan-level data submitted to the agencies on the loan application register would be made available to the public, the FFIEC noted that ''[a]n unedited form of the data would contain information that could be used to identify individual loan applicants'' and that the data would be edited prior to public release to remove the application identification number, the date of application, and the date of final action. 55 FR 27886, 27888 (July 6, 1990).

require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public.'' Section 304(h)(3)(B), also added by the Dodd-Frank Act, directs the Bureau to ''prescribe standards for any modification under paragraph (1)(E) to effectuate the purposes of [HMDA], in light of the privacy interests of mortgage applicants or mortgagors. Where necessary to protect the privacy interests of mortgage applicants or mortgagors, the Bureau shall provide for the disclosure of information . . . in aggregate or other reasonably modified form, in order to effectuate the purposes of [HMDA].'' [120]

The Bureau interprets HMDA, as amended by these provisions, to call for the use of a balancing test to determine whether and how HMDA data should be modified prior to its public release in order to protect applicant and borrower privacy while also fulfilling the public disclosure purposes of the statute.[121] This proposed rule only addresses financial institutions' disclosures of HMDA data to the public; it does not address the FFIEC's release of HMDA data. The Bureau, in consultation with other appropriate agencies, will use the balancing test to evaluate potential privacy risks created by HMDA data made available to the public by both financial institutions and the FFIEC, including the loan-level data that the FFIEC currently makes available on behalf of the Bureau and other agencies. The Bureau intends to provide a process for the public to provide input on the application of the balancing test to the data currently made available by the FFIEC at a later date.

Using the balancing test to evaluate particular HMDA data points, individually and in combination, and various options for providing access to HMDA data, the Bureau will balance the importance of releasing the data to accomplish HMDA's public disclosure purposes against the potential harm to an applicant or borrower's privacy interest that may result from the release of the data without modification. Modifications the Bureau may consider where warranted include various disclosure limitation techniques, such as techniques aimed at masking the precise value of data points,[122] aggregation, redaction, use restrictions, query-based systems, and a restricted access program.[123] The Bureau understands that the diverse populations of HMDA data users have different data needs, including with respect to the granularity of data, and recognizes that mitigating privacy risks in data disclosed to the public may decrease the data's utility to its users. The Bureau interprets HMDA, as amended by the Dodd-Frank Act, to require that public HMDA data be modified only when the release of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such release to the public for the statutory purposes. The Bureau believes that privacy interests arise where the data's disclosure may both substantially facilitate the identification of an applicant or borrower *and* disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive.

The Bureau believes that its interpretation of HMDA to call for the use of the balancing test described herein best effectuates the purposes of the statute. HMDA's purposes are to provide the public and public officials with sufficient information to enable them to determine whether institutions are serving the housing needs of the communities and neighborhoods in which they are located, to assist public officials in distributing public sector investments in a manner designed to improve the private investment environment, and to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. The Bureau believes that access to loan-level HMDA data, in particular, enhances the use of HMDA data by members of the public and public officials and thus best effectuates HMDA's purposes.[124] At the same time, the Dodd-Frank Act amendments and the Bureau's proposals would require that financial institutions report on the loan application register submitted to the Bureau and other agencies additional data points that may raise potential privacy concerns if made available to the public.[125] The Bureau believes that the balancing test described above provides for the appropriate protection of applicant and borrower privacy in light of the public disclosure goals of the statute.

During the Small Business Review Panel process, some small entity representatives expressed concerns about the privacy implications of certain current and proposed HMDA data.[126] The Small Business Review Panel recommended that the Bureau evaluate ways to address any privacy risks that may be created by the disclosure of HMDA data.[127] The Bureau's analysis under the balancing test concerning whether and how HMDA data should be modified prior to public release is ongoing. The Bureau also continues to investigate available strategies and techniques to protect applicant and borrower privacy, where warranted, while preserving the data's utility for HMDA's purposes. The Bureau solicits feedback on the balancing test described herein, including whether other interpretations of HMDA section 304(h)(1)(E) and (h)(3) would better effectuate HMDA's purposes. As discussed below in the section-by-section analysis of proposed § 1003.5(c), in order to avoid creating new privacy risks and imposing burdens on financial institutions, the Bureau is proposing

[120] Section 304(h)(3)(A) provides that a modification under section 304(h)(1)(E) shall apply to information concerning ''(i) credit score data . . . in a manner that is consistent with the purpose described in paragraph (1)(E); and (ii) age or any other category of data described in paragraph (5) or (6) of subsection (b), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose.''

[121] Section 1022(c)(8) of the Dodd-Frank Act provides that, ''[i]n collecting information from any person, publicly releasing information held by the Bureau, or requiring covered persons to publicly report information, the Bureau shall take steps to ensure that'' certain information is not ''made public under this title.'' The Bureau interprets ''under this title'' to not include data made public pursuant to HMDA and Regulation C.

[122] Examples of disclosure techniques that may mitigate privacy concerns include binning, coarsening, perturbing, and top- and bottom-coding. Data binning, for example, is a technique wherein the original data value (for example, a number reported to the agencies on the loan application register) is placed in an interval, or bin, and is then represented by the value of that bin. Binning allows data to be shown clustered into ranges rather than as precise values.

[123] A restricted access program could allow access to privacy-sensitive information, otherwise unavailable to the general public, for research purposes.

[124] The Bureau agrees with the 1990 findings of the FFIEC agencies that ''the release of the raw [loan-level] data is consistent with the congressional intent to maximize the utilization of'' the HMDA data. 55 FR 27886, 27888 (July 6, 1990). The importance of loan-level data to HMDA's purposes is also reflected in Congress's use of the term ''loan application register information'' in HMDA section 304(j) to describe the data financial institutions must make available to the public upon request. At the time HMDA was amended to add section 304(j), the term ''loan/application register'' was used in Regulation C to describe the loan-by-loan, register format for reporting HMDA data to the agencies. Section 304(j)(2)(A), as originally adopted, provided that, subject to deletions to protect privacy, ''the loan application register information described in paragraph (1) may be disclosed by a depository institution without editing or compilation and in the format in which such information is maintained by the institution.'' Housing and Community Development Act of 1992, Public Law 102–550, section 932(a), 106 Stat. 3672, 3889 (1992).

[125] Congress specifically identified credit score and age as new data points that may raise privacy concerns. *See* HMDA section 304(h)(3)(A).

[126] *See supra* note 112.

[127] *See* Small Business Review Panel Report at 40.

that financial institutions release on the modified loan application register only those data fields that are currently released, and is seeking comment on any privacy risks created by and disclosure benefits of those data fields. As noted above, the Bureau intends to provide a process for the public to provide input on the application of the balancing test for purposes of the data made available to the public by the FFIEC, including the loan-level data it currently makes available on behalf of the Bureau and other agencies, and on any proposed modifications to such data, at a later date.

III. Outreach

In 2010, when the Board had rulemaking authority over HMDA, the Board conducted a series of public hearings that elicited feedback on improvements to Regulation C. After the rulemaking authority for HMDA was transferred to the Bureau, the Bureau conducted outreach on implementing the Dodd-Frank Act amendments to HMDA and other potential changes to Regulation C by soliciting comments in **Federal Register** notices and by meeting with a variety of stakeholders, including trade associations, financial institutions, community groups, and other Federal agencies. The Bureau also convened a Small Business Review Panel to obtain feedback from small financial institutions as well as the general public. To prepare this proposal, the Bureau considered both the comments presented to the Board during its public hearings and feedback provided to the Bureau during its outreach.

A. The Board's 2010 Public Hearings

In 2010, the Board convened public hearings on potential revisions to Regulation C (the Board's 2010 Hearings).[128] The Board began the reassessment of HMDA in the aftermath of the financial crisis, as Congress was considering the legislation that later became the Dodd-Frank Act. The Board stated that there were three purposes of the hearings: (1) To provide information that would assist the Board in its review of Regulation C, (2) to help assess the need for additional data, and (3) to identify emerging issues in the mortgage market that could warrant additional research.[129] Representatives from community organizations, consumer advocates, industry, academia, State and Federal agencies, and others participated in the hearings. The Board did not commence a rulemaking to consider any of the feedback provided during the hearings before HMDA rulemaking authority was transferred to the Bureau.

Institutional Coverage

The Board identified institutional coverage as one of the topics for discussion at the hearings. Participants addressed whether the Board should require reporting from additional types of institutions, whether certain types of institutions should be exempt from reporting, and whether any other changes should be made to the rules for determining which types of institutions must report data. For example, representatives from Federal agencies, lenders, and consumer advocates urged the Board to adopt a consistent minimum loan threshold across all types of institutions, including banks, savings associations, credit unions, and nondepository institutions.[130] In particular, industry representatives noted the limited value derived from data reported by lower-volume depository institutions.[131] Industry and community advocate representatives also asserted that loan volume, rather than asset size, should trigger reporting, particularly for nondepository lenders because they tend to have a different capital structure than banks, savings associations, and credit unions.[132] Participants also urged the Board to expand coverage of nondepository institutions.[133] In addition, participants commented that the coverage scheme for nondepository institutions was too complex and should be simplified.[134]

Data Elements

The Board solicited feedback on ways to improve the quality and usefulness of HMDA data, including whether any data elements should be added, modified, or deleted. Participants provided suggestions about ways to improve the utility of HMDA data. Participants discussed modifications to the data fields currently collected in Regulation C that may clarify reporting requirements and improve the usefulness of HMDA data. For example, participants urged the Board to augment the information collected concerning multifamily properties[135] and manufactured housing[136] and to expand the reporting of rate spread to all originations.[137] Participants also urged the Board to clarify specific reporting requirements, such as how to report modular homes[138] and conditional approvals.[139] Participants discussed the reluctance of applicants to provide demographic information, such as race and ethnicity, and the challenges financial institutions face in collecting the information.[140]

In addition, participants commented on data fields that could be added to the data collected under HMDA to improve its utility. For example, participants suggested collecting information regarding points and fees, including prepayment penalties,[141] information concerning the relationship of the loan amount to the value of the property securing the loan,[142] and information concerning whether an application was submitted through a mortgage broker.[143]

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[128] *See* 75 FR 35030 (June 21, 2010).

[129] *Id.*

[130] Transcript, Fed. Reserve Board Public Hearing on Potential Revisions to the Home Mortgage Disclosure Act, Washington DC, Sept. 24, 2010 [hereinafter Washington Hearing], (remarks of Faith Schwartz, Senior Advisory, HOPE Now Alliance at Washington, DC hearing) (''I think everyone should have the burden of reporting that has any meaningful originations out there . . . .''), *http://www.federalreserve.gov/communitydev/files/full_transcript_board_20100924.pdf ; id.* (remarks of Josh Silver, Vice President of Research and Policy, National Community Reinvestment Coalition) (''[I]n terms of your threshold, it is very confusing because you have depository institutions that have different thresholds and nondepository institutions . . . I suggested just make it the same for everybody. If you make more than [50 reportable loans under HMDA], you disclose. . . . So that's a threshold I would propose across the board for nondepository institutions and depository institutions.'').

[131] *See, e.g.,* Transcript, Fed. Reserve Board Public Hearing on Potential Revisions to the Home Mortgage Disclosure Act, Atlanta, Georgia, July 15, 2010 [hereinafter Atlanta Hearing], *http://www.federalreserve.gov/communitydev/files/full_transcript_atlanta_20100715.pdf.*

[132] *See, e.g., id.* (remarks of Faith Anderson, Vice President and General Counsel, American Airlines Federal Credit Union) (''[A]n exemption from HMDA reporting should be based on the volume of mortgage loans that are given. Exemptions should not be based on the asset size of a financial institution.'').

[133] *See, e.g.,* Transcript Fed. Reserve Board Public Hearing on Potential Revisions to the Home Mortgage Disclosure Act, San Francisco, California, Aug. 5, 2010 [hereinafter San Francisco Hearing], *http://www.federalreserve.gov/communitydev/files/full_transcript_sf_20100805.pdf*; Washington Hearing, *supra* note 130; Atlanta Hearing, *supra* note 131.

[134] *See, e.g.,* Washington Hearing, *supra* note 130.

[135] *See, e.g.,* San Francisco Hearing, *supra* note 133; Washington Hearing, *supra* note 130.

[136] *See, e.g., id.*

[137] *See, e.g.,* Atlanta Hearing, *supra* note 131; Transcript, Fed. Reserve Board Public Hearing on Potential Revisions to the Home Mortgage Disclosure Act, Chicago, Illinois, Sept. 16, 2010 [hereinafter Chicago Hearing], *http://www.federalreserve.gov/communitydev/files/full_transcript_chicago_20100916.pdf*; *id.* (remarks of Professor Jim Campen, University of Massachusetts).

[138] *See, e.g.,* Atlanta Hearing, *supra* note 131.

[139] *See, e.g.,* Washington Hearing, *supra* note 130.

[140] *See, e.g.,* Atlanta Hearing, *supra* note 131; San Francisco Hearing, *supra* note 133; Chicago Hearing, *supra* note 137.

[141] *See, e.g.,* San Francisco Hearing, *supra* note 133; Chicago Hearing, *supra* note 137.

[142] *See, .e.g.,* Atlanta Hearing, *supra* note 131; San Francisco Hearing, *supra* note 133; Chicago Hearing, *supra* note 137; Washington Hearing, *supra* note 130.

[143] *See, e.g.,* Chicago Hearing, *supra* note 137.

B. Early Stakeholder Outreach

Title X of the Dodd-Frank Act established the Bureau and, on July 21, 2011, transferred rulemaking authority under HMDA from the Board to the Bureau. As discussed below, the Dodd-Frank Act also amended HMDA to add additional data points and make other statutory changes. However, pursuant to section 1094(3)(F) of the Dodd-Frank Act, financial institutions are not required to report new data under paragraphs (5) or (6) of HMDA subsection (b) until after the Bureau publishes final regulations with respect to such disclosures.

On May 31, 2011, the Bureau published a notice for public comment providing a preliminary list of rules that would be enforced by the Bureau upon the designated transfer date.[144] The list included Regulation C and invited public comment on the list. On July 21, 2011, the Bureau published the final list of rules, which included Regulation C.[145] The Bureau received general comments requesting the Bureau not to impose duplicative regulatory burdens, that it take into account differences between regulated entities in rulemaking, and that it involve stakeholders in the Bureau's rulemaking process.

Since the Bureau's inception and its assumption of authority over Federal consumer financial laws, it has tried to be responsive to those early comments regarding regulatory burden, differences in regulated entities, and outreach to stakeholders in its rulemaking process. Building on the feedback received during the Board's 2010 Hearings, the Bureau has conducted outreach and obtained significant feedback on the Dodd-Frank amendments and other potential changes to Regulation C through **Federal Register** notices and meetings with stakeholders. The Bureau met with various stakeholders during the proposal development process through in-person meetings and conference calls, and solicited feedback through correspondence.

On December 5, 2011, the Bureau published a request for information in the **Federal Register** seeking feedback on regulations that it had inherited from other agencies (the Bureau's 2011 Streamlining Proposal).[146] In the Bureau's 2011 Streamlining Proposal, the Bureau stated that it believed there may be opportunities to streamline inherited regulations by updating, modifying, or eliminating outdated, unduly burdensome, or unnecessary provisions.[147] The Bureau solicited general feedback on such opportunities. The Bureau noted that, under current Regulation C, a depository institution that did not ordinarily originate home purchase loans, but that occasionally refinanced a home purchase loan to accommodate a customer, would be required to report under Regulation C. The Bureau solicited feedback on whether small numbers of refinancings should not trigger Regulation C coverage.[148] The Bureau's 2011 Streamlining Proposal provided for an initial comment period and a reply period to allow commenters to respond to each other's comments.[149] The initial comment period closed March 5, 2012 and the reply period closed June 4, 2012.[150]

The Bureau received comments regarding its specific solicitation for feedback, as well as general suggestions for streamlining Regulation C. Comments were received from consumer advocates, fair housing advocates, financial institutions, State bank supervisory organizations, State industry trade associations, and national industry trade associations. Comments from consumer and fair housing advocates generally focused on adding additional data and types of covered loans, and generally opposed any exemptions or reporting thresholds for Regulation C on the basis that the data are critical for fair lending enforcement and determining if community housing needs are being met. Other comments focused on various potential streamlining changes to Regulation C including establishing loan-volume or asset reporting thresholds, exempting some types of loans from coverage or adding others, making definitions consistent with other regulations, tiered reporting requirements, consolidating guidance sources, and clarifying certain definitions and reporting issues.

On December 19, 2011 the Bureau published an interim final rule establishing Regulation C in 12 CFR part 1003, implementing the assumption of HMDA authority from the Board (the Bureau's 2011 Regulation C Restatement).[151] The Bureau's 2011 Regulation C Restatement substantially duplicated the Board's Regulation C and made only non-substantive, technical, formatting, and stylistic changes. The Bureau also solicited comment through that notice on any technical issues and any provisions that are outdated, unduly burdensome, or unnecessary. The Bureau received a few comments from financial institutions, State industry trade associations, and national industry trade associations. The comments focused on aligning Regulation C definitions with other regulations, providing a tolerance for enforcement actions based on low error rates in reported data, and establishing a loan-volume threshold.

In an effort to better understand existing and emerging industry data standards and whether Regulation C could be aligned with them, the Bureau met with staff from MISMO regarding the MISMO residential reference model dataset and staff from the GSEs regarding ULDD. In an effort to better understand financial institutions' internal HMDA compliance processes and compliance costs, the Bureau, through arrangements with a national industry trade association, met with community banks to obtain feedback. The Bureau also met with consumer and fair housing advocates and industry trade associations to understand their concerns with current HMDA data, current Regulation C, and possible changes to Regulation C.

C. Small Business Review Panel

In February 2014, the Bureau convened a Small Business Review Panel (Panel) with the Chief Counsel for Advocacy of the Small Business Administration (SBA) and the Administrator of the Office of Information and Regulatory Affairs with the Office of Management and Budget (OMB).[152] As part of this process, the Bureau prepared an outline of proposals under consideration and the alternatives considered (Small Business Review Panel Outline), which the Bureau posted on its Web site for review by the small financial institutions participating in the panel process, as well as the general public.[153]

Prior to formally convening, the Panel participated in teleconferences with small groups of the small entity representatives to introduce to the materials and to obtain feedback. The

[144] 76 FR 31222 (May 31, 2011).

[145] 76 FR 43570 (Jul. 21, 2011).

[146] 76 FR 75825 (Dec. 5, 2011).

[147] *Id.*

[148] 76 FR 75825, 75828.

[149] 76 FR 75825.

[150] The reply period was initially scheduled to close on April 3, 2012, but was later extended to June 4, 2012 in response to a request from industry trade associations and consumer advocates. 77 FR 14700 (Mar. 13, 2012).

[151] 76 FR 78465 (Dec. 19, 2011).

[152] *Supra* note 111.

[153] Press Release, CFPB Takes Steps to Improve Information About Access to Credit in the Mortgage Market (Feb. 7, 2014) *http://www.consumerfinance.gov/newsroom/cfpb-takes-steps-to-improve-information-about-access-to-credit-in-the-mortgage-market/*. The Bureau also gathered feedback on the Small Business Review Panel Outline from other stakeholders and members of the public, and from the Bureau's Consumer Advisory Board and Community Bank Advisory Council.

Panel conducted a full-day outreach meeting with the small entity representatives in March 2014 in Washington, DC. The Panel gathered information from the small entity representatives and made findings and recommendations regarding the potential compliance costs and other impacts of the proposed rule on those entities. Those findings and recommendations are set forth in the Small Business Review Panel Report, which will be made part of the administrative record in this rulemaking.[154] The Bureau has carefully considered these findings and recommendations in preparing this proposal and addresses certain specific examples below.

IV. Legal Authority

The Bureau is issuing this proposed rule pursuant to its authority under the Dodd-Frank Act and HMDA. Section 1061 of the Dodd-Frank Act transferred to the Bureau the ''consumer financial protection functions'' previously vested in certain other Federal agencies, including the Board.[155] The term ''consumer financial protection function'' is defined to include ''all authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law, including performing appropriate functions to promulgate and review such rules, orders, and guidelines.'' [156] Section 1022(b)(1) of the Dodd-Frank Act authorizes the Bureau's Director to prescribe rules ''as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.'' [157] Both HMDA and title X of the Dodd-Frank Act are Federal consumer financial laws.[158]

HMDA section 305(a) broadly authorizes the Bureau to prescribe such regulations as may be necessary to carry out HMDA's purposes.[159] These regulations can include ''classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary and proper to effectuate the purposes of [HMDA], and prevent circumvention or evasion thereof, or to facilitate compliance therewith.'' [160]

A number of HMDA provisions specify that covered institutions must compile and make their HMDA data publicly available ''in accordance with regulations of the Bureau'' and ''in such formats as the Bureau may require.'' [161] HMDA section 304(j)(1) authorizes the Bureau to issue regulations to define the loan application register information that HMDA reporters must make available to the public upon request and to specify the form required for such disclosures.[162] HMDA section 304(j)(2)(B) provides that ''[t]he Bureau shall require, by regulation, such deletions as the Bureau may determine to be appropriate to protect—(i) any privacy interest of any applicant . . . ; and (ii) a depository institution from liability under any Federal or State privacy law.'' [163] HMDA section 304(j)(7) also directs the Bureau to make every effort in prescribing regulations under the subsection to minimize the costs incurred by a depository institution in complying with the subsection and regulations.[164]

HMDA section 304(e) directs the Bureau to prescribe a standard format for HMDA disclosures required under HMDA section 304.[165] As amended by the Dodd-Frank Act, HMDA section 304(h)(1) requires HMDA data to be submitted to the Bureau or to the appropriate agency for the reporting financial institution ''in accordance with rules prescribed by the Bureau.'' [166] HMDA section 304(h)(1) also directs the Bureau, in consultation with other appropriate agencies, to develop regulations after notice and comment that:

(A) prescribe the format for such disclosures, the method for submission of the data to the appropriate agency, and the procedures for disclosing the information to the public;

(B) require the collection of data required to be disclosed under [HMDA section 304(b)] with respect to loans sold by each institution reporting under this title;

(C) require disclosure of the class of the purchaser of such loans;

(D) permit any reporting institution to submit in writing to the Bureau or to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans; and

(E) modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public.[167]

HMDA also authorizes the Bureau to issue regulations relating to the timing of HMDA disclosures.[168]

As amended by the Dodd-Frank Act, HMDA section 304 requires itemization of specified categories of information and ''such other information as the Bureau may require.'' [169] Specifically, HMDA section 304(b)(5)(D) requires reporting of ''such other information as the Bureau may require'' for mortgage loans, and section 304(b)(6)(J) requires reporting of ''such other information as the Bureau may require'' for mortgage loans and applications. HMDA section 304 also identifies certain data points that are to be included in the itemization ''as the Bureau may determine to be appropriate.'' [170] It provides that age and other categories of data shall be modified prior to release ''as the Bureau determines to be necessary'' to satisfy the statutory purpose of protecting the privacy interests of the mortgage applicants or mortgagors.[171]

The Dodd-Frank Act amendments to HMDA also authorize the Bureau's

[154] *Supra* note 111.

[155] 12 U.S.C. 5581. Section 1094 of the Dodd-Frank Act also replaced the term ''Board'' with ''Bureau'' in most places in HMDA. 12 U.S.C. 2803 *et seq.*

[156] 12 U.S.C. 5581(a)(1)(A).

[157] 12 U.S.C. 5512(b)(1).

[158] Dodd-Frank Act section 1002(14), 12 U.S.C. 5481(14) (defining ''Federal consumer financial law'' to include the ''enumerated consumer laws'' and the provisions of title X of the Dodd-Frank Act); Dodd-Frank Act section 1002(12), 12 U.S.C. 5481(12) (defining ''enumerated consumer laws'' to include HMDA).

[159] 12 U.S.C. 2804(a).

[160] *Id.*

[161] *See, e.g.,* HMDA section 304(a)(1), (j)(2)(A), (j)(3), (m)(2), 12 U.S.C. 2803(a)(1), (j)(2)(A), (j)(3), (m)(2); *see also* HMDA section 304(b)(6)(I), 12 U.S.C. 2803(b)(6)(I) (requiring covered institutions to use ''such form as the Bureau may prescribe'' in reporting credit scores of mortgage applicants and mortgagors). HMDA section 304(k)(1) also requires depository institutions covered by HMDA to make disclosure statements available ''[i]n accordance with procedures established by the Bureau pursuant to this section.'' 12 U.S.C. 2803(k)(1).

[162] 12 U.S.C. 2803(j)(1).

[163] 12 U.S.C. 2803(j)(2)(B).

[164] 12 U.S.C. 2803(j)(7).

[165] 12 U.S.C. 2803(e).

[166] 12 U.S.C. 2803(h)(1); *see also* HMDA section 304(n), 12 U.S.C. 2803(n) (discussing submission to the Bureau or the appropriate agency ''in accordance with regulations prescribed by the Bureau''). For purposes of HMDA section 304(h), HMDA section 304(h)(2) defines the appropriate agencies for different categories of financial institutions. The agencies are the Federal banking agencies, the FDIC, the NCUA, and the Secretary of HUD. 12 U.S.C. 2803(h)(2).

[167] 12 U.S.C. 2803(h)(1). The Dodd-Frank Act also added new HMDA section 304(h)(3), which directs the Bureau to prescribe standards for any modification pursuant to HMDA section 304(h)(1)(E), to effectuate HMDA's purposes, in light of the privacy interests of mortgage applicants or mortgagors. 12 U.S.C. 2803(h)(1)(E), 2803(h)(3).

[168] HMDA section 304(*l*)(2)(A), 12 U.S.C. 2803(*l*)(2)(A) (setting maximum disclosure periods except as provided under other HMDA subsections and regulations prescribed by the Bureau); HMDA section 304(n), 12 U.S.C. 2803(n).

[169] HMDA section 304(b)(5)(D), (b)(6)(J), 12 U.S.C. 2803(b)(5)(D), (b)(6)(J).

[170] HMDA section 304(b)(6)(F), (G), (H), 12 U.S.C. 2803(b)(6)(F), (G), (H).

[171] HMDA section 304(h)(3)(A)(ii), 12 U.S.C. 2803(h)(3)(A)(ii).

Director to develop or assist in the improvement of methods of matching addresses and census tracts to facilitate HMDA compliance by depository institutions in as economical a manner as possible.[172] The Bureau, in consultation with the Secretary of HUD, may also exempt for-profit mortgage-lending institutions that are comparable within their respective industries to a bank, savings association, or credit union that has total assets of $10,000,000 or less.[173]

In preparing this notice of proposed rulemaking, the Bureau has considered the proposed changes below in light of its legal authority under HMDA and the Dodd-Frank Act. The Bureau has determined that each of the changes proposed below is consistent with the purposes of HMDA and is authorized by one or more of the sources of statutory authority identified in this part.

V. Section-by-Section Analysis

Section 1003.1 Authority, Purpose, and Scope

1(c) Scope

As discussed further in the section-by-section analysis of proposed § 1003.2(d), 2(g), and 2(o) the Bureau proposes substantive modifications to Regulation C's transactional and institutional coverage. The Bureau proposes technical changes to § 1003.1(c) to conform to those substantive changes.

Institutional Coverage

As discussed in detail below in the section-by-section analysis of proposed § 1003.2(g), the Bureau proposes to adjust Regulation C's institutional coverage to adopt a uniform loan volume threshold of 25 covered loans, excluding open-end lines of credit, applicable to all financial institutions (25-loan volume test). Under the proposal, depository and nondepository institutions that meet all of the other applicable criteria for a ''financial institution'' would be required to report HMDA data if they originated at least 25 covered loans, excluding open-end lines of credit, in the previous calendar year. The Bureau believes that this proposal would improve the quality of HMDA data by increasing visibility into the practices of nondepository institutions. In addition, the proposal would appropriately relieve institutions that originate a small number of mortgage loans from the burden of reporting HMDA data without impacting the quality of HMDA data. Furthermore, the proposed 25-loan volume test would simplify the reporting regime by providing a consistent loan volume benchmark across all financial institutions.

Transactional Coverage

As discussed below, the Bureau is proposing to expand the types of transactions for which covered financial institutions must report data under Regulation C by including all mortgage loans, reverse mortgages, and lines of credit secured by a dwelling within the transactional scope of the regulation. Regulation C currently determines transactional coverage according to the purpose of the loan; if a covered financial institution receives an application or originates or purchases a loan that is, among other things, for the purchase of a home, home improvement, or refinancing, the financial institution must collect and report data on the application or loan. As discussed below in the section-by-section analysis to § 1003.2(d), the Bureau is proposing to expand transactional coverage to include all mortgage loans secured by a dwelling, regardless of the purpose of the loan. This proposed modification includes several types of transactions that are not currently covered by Regulation C, including home-equity loans and commercial loans that are secured by a dwelling but do not satisfy the current purpose-based transactional coverage test. In addition, as discussed below in the section-by-section analysis to § 1003.2(o), the Bureau is proposing to expand transactional coverage to include all dwelling-secured lines of credit, regardless of the purpose of the line of credit. This proposed modification includes all home-equity lines of credit, which are currently reported at the option of a financial institution if the purpose-based test is satisfied, as well as commercial lines of credit secured by a dwelling. Finally, as discussed below in the section-by-section analysis to § 1003.2(q), the Bureau is proposing to expand transactional coverage to include all reverse mortgages secured by a dwelling, regardless of the purpose of the reverse mortgage. This proposed modification includes all reverse mortgages, many of which do not satisfy the current purpose-based transactional coverage test, and therefore are not currently reported under Regulation C. The Bureau believes that these modifications would simplify the regulation, improve the quality and usefulness of the HMDA data, and align with current business practices, among other things. See the section-by-section analysis to these sections below for a detailed discussion of these proposed modifications.

In addition, to reduce burden created by redundancy in Regulation C, the Bureau proposes a modest reorganization of Regulation C. For the reasons discussed in the section-by-section analysis below, the Bureau proposes to move and consolidate comments 1(c)–2 through 1(c)–9.

Section 1003.2 Definitions

Section 1003.2 of Regulation C sets forth definitions that are used in the regulation. As discussed below, the Bureau proposes substantive changes to several of these current definitions. In addition to these proposed substantive changes, the Bureau proposes technical revisions to § 1003.2 to enumerate the terms defined therein. The Bureau believes that these proposed technical revisions will facilitate compliance with Regulation C by making defined terms easier to locate and cross-reference in the regulation and its commentary and appendices. The Bureau includes in this proposal enumerations only for those definitions that it proposes to add or revise. The Bureau intends to provide enumerations for all definitions in § 1003.2, including the defined terms not addressed in this proposal, when the Bureau finalizes this proposal.

2(b) Application

2(b)(1) In General

Section 303(4) of HMDA defines a completed application as an application in which the creditor has received the information that is regularly obtained in evaluating applications for the amount and type of credit requested. Regulation C defines an application as an oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a financial institution for the type of credit requested.

As discussed in the section-by-section analysis of proposed § 1003.2(e) the Bureau is proposing to require financial institutions to report activity only for dwelling-secured loans, regardless of whether the loans are for home purchase, home improvement, or refinancing. The Bureau is proposing to make technical corrections and minor wording changes to conform the definition of application to the proposed changes in transactional coverage.

The Bureau is not proposing other changes to the definition of application at this time. When the Bureau's 2011

[172] HMDA section 307(a), 12 U.S.C. 2806(a) (authorizing the Bureau's Director to utilize, contract with, act through, or compensate any person or agency to carry out this subsection).

[173] HMDA section 309(a), 12 U.S.C. 2808(a).

Regulation C Restatement was published, industry trade associations asked the Bureau to align key definitions among various regulations, including the definition of application. The commenters noted the difference between the definition of application in Regulation C and Regulation X, for example. The Bureau responded to similar comments in the Bureau's 2013 TILA–RESPA Final Rule.[174] During the Small Business Review Panel process, small entity representatives also suggested that the Regulation C definition of application be aligned with the definition used in the Bureau's 2013 TILA–RESPA Final Rule.[175] As discussed in the Bureau's 2013 TILA–RESPA Final Rule, the definition in that rule serves a different purpose from the definition in Regulation C, and the Bureau did not expand that definition to regulations that implement ECOA, FCRA, and HMDA.[176] Consistent with the Bureau's determination in the TILA–RESPA rulemaking, the Bureau is not proposing to align the Regulation C definition with the definition adopted in the Bureau's 2013 TILA–RESPA Final Rule. While the Bureau is not proposing to make any changes to the Regulation C definition for alignment purposes at this time, the Bureau will continue to consider the comments received on this topic as it evaluates further follow up to the Bureau's 2011 Streamlining Notice and other comments received. The proposal revises comments Application-1 and Application-2 to make technical and minor wording changes.

2(b)(2) Preapproval Programs

Regulation C incorporates certain requests under preapproval programs into the definition of application under § 1003.2. Requests for preapprovals may provide more complete data on the availability of home financing and be useful as a fair lending screening device.[177] Such programs are only covered if they involve a comprehensive analysis of the creditworthiness of the applicant and include a written commitment for up to a specific amount, subject only to certain limited conditions.[178] Institutions must report requests reviewed under covered preapproval programs that were denied or that resulted in originations (with a specific enumeration that preapproval was requested). Institutions may, at their option, report covered preapprovals that were approved but not accepted. The FFIEC has published some additional guidance on preapprovals in the form of frequently asked questions (FFIEC FAQs).[179]

The Bureau is proposing to make minor wording changes to the definition of a preapproval program under § 1003.2(b)(2) and technical and clarifying changes to comment Application-3. The Bureau is proposing to delete language in the definition related to a certification of a clear termite inspection because it duplicates language in the commentary. The proposal adds language adapted from the FFIEC FAQs to the comment Application-3. This language specifies that a program that meets the definition in § 1003.2(b)(2) is a preapproval program for purposes of Regulation C regardless of its name, and that a program described as a ''preapproval program'' that does not meet the definition in § 1003.2(b)(2) is not a preapproval program for purposes of Regulation C. The language also specifies that an institution need not treat *ad hoc* requests for preapprovals as part of a preapproval program for purposes of Regulation C, but also notes that institutions should be generally consistent in procedures for considering such requests.

During the Small Business Review Panel process, small entity representatives expressed concern about reporting preapprovals and determining whether certain requests are reportable as preapprovals. The Small Business Review Panel recommended that the Bureau specifically solicit public comment on whether clarification on the coverage of preapprovals is needed and, if so, how the coverage of preapprovals should be determined in light of HMDA's purposes.[180] When the Bureau's 2011 Regulation C Restatement was published, some commenters requested additional guidance on preapproval programs and others requested that the Bureau eliminate the requirement to report activity under covered preapproval programs. The Bureau believes that preapproval data are valuable for HMDA's fair lending purpose, as it permits visibility into how applicants are treated in an early stage of the lending process. The Bureau is not proposing to eliminate reporting of covered preapproval programs, and, as discussed below in the section-by-section analysis of proposed § 1003.4(c)(2), is proposing to require reporting of preapproval requests that are approved by a financial institution but not accepted by an applicant. However, the Bureau notes that, as discussed above, the proposal does incorporate additional guidance into comment Application-3 regarding preapproval programs. Consistent with the recommendation of the Small Business Review Panel, the Bureau solicits feedback on whether additional clarification on the coverage of preapprovals is needed and, if so, how the coverage of preapprovals should be determined in light of HMDA's purposes.

2(c) Branch Office

Section 1003.2 currently provides a definition of branch office, which includes separate definitions for branches of (1) banks, savings associations, and credit unions and (2) for-profit mortgage-lending institutions (other than banks, savings associations, and credit unions). The Bureau proposes technical and nonsubstantive modifications to the definition of branch office and to comments Branch Office-2 and -3, renumbered as comments 2(c)-2 and -3, respectively, to clarify the definition and to conform to technical changes that the Bureau is proposing throughout Regulation C. The Bureau solicits feedback on whether the proposed modifications are appropriate generally.

2(d) Closed-End Mortgage Loan

HMDA section 303(2) defines a ''mortgage loan'' as a loan which is secured by residential real property or a home improvement loan. The Board interpreted HMDA section 303(2) to refer to three types of loans: Home purchase loans, home improvement loans, and refinancings. As a result, Regulation C currently does not apply to mortgage loans that do not fall under one of these definitions, such as a loan secured by a dwelling that is used for business expenses, but is not considered a refinancing under § 1003.2. For the reasons discussed below, the Bureau is proposing a new definition for ''closed-end mortgage loans,'' which would include all dwelling-secured loans that are not currently covered by Regulation C, regardless of the purpose of the loan.

In the original implementation of Regulation C, the Board's proposed scope included all loans secured by real property.[181] However, the Board subsequently decided to adopt a narrower scope based on the purpose of the loan.[182] At that time, the Board reasoned that focusing on the purpose of the loan would provide more useful

[174] 78 FR 79730, 79767 (Dec. 31, 2013).

[175] *See* Small Business Review Panel Report at 87, 95.

[176] 78 FR 79767 (Dec. 31, 2013).

[177] 67 FR 7222, 7224 (Feb. 15, 2002).

[178] Section 1003.2 (definition of preapproval programs).

[179] FFIEC FAQs.

[180] Small Business Review Panel Report at 38.

[181] *See* 41 FR 13619, 13620 (Mar. 31, 1976).

[182] *See* 41 FR 23931, 23932 (June 14, 1976).

data.[183] While this approach was successful for some time, the Bureau believes that it now may be appropriate to include all dwelling-secured loans. Research indicates that closed-end home-equity lending was a significant factor in the financial crisis.[184] In the years leading up to the crisis, closed-end home-equity loans were often provided to non-prime borrowers, many of whom defaulted after the crisis began.[185] Thus, data on these closed-end mortgage loans may have helped the public better understand the risks posed to local housing markets. Furthermore, distressed homeowners with closed-end subordinate-lien mortgage loans encountered several challenges when seeking assistance from public and private mortgage relief programs.[186] Data on these loans may have helped public officials improve the effectiveness of these relief programs.

For these reasons, the Bureau believes that including dwelling-secured loans that are not currently covered by Regulation C may provide valuable information to the public and to public officials. Accordingly, the Bureau is proposing § 1003.2(d), which defines a ''closed-end mortgage loan'' as a debt obligation secured by a lien on a dwelling that is not an open-end line of credit under § 1003.2(o), a reverse mortgage under § 1003.2(q), or excluded from coverage pursuant to § 1003.3(c). The Bureau solicits feedback regarding whether this proposed modification is appropriate. The Bureau also seeks additional information to ensure that this modification would provide useful data to the public. Specifically, the Bureau solicits feedback regarding whether this proposed modification would be as valuable to the public as the Bureau's preliminary analysis suggests, whether there would be unique costs or burdens associated with this proposed modification, and whether there are additional considerations that should be included in the Bureau's analysis. Furthermore, the Bureau is not proposing commentary to proposed § 1003.2(d) because the Bureau believes that this proposed definition is straightforward and clear. However, the Bureau solicits feedback regarding whether commentary is needed to clarify the definition or to facilitate compliance.

During the Small Business Review Panel process, several small entity representatives expressed concerns about requiring reporting of dwelling-secured commercial credit.[187] Some small entity representatives expressed concern about the potential compliance challenges associated with applying several of the HMDA requirements to commercial loans.[188] The Small Business Review Panel recommended that the Bureau solicit public comment on whether any types of dwelling-secured loans should be excluded from Regulation C's data collection and reporting requirements and, if so, which types of loans should be excluded.[189] The Small Business Review Panel also encouraged the Bureau to consider and seek public comment on how categories of loans that would be affected by the proposal might be related to a financial institution's Community Reinvestment Act reporting obligations.[190] Based on this feedback and consistent with the Small Business Review Panel's recommendation, the Bureau solicits feedback regarding whether any types of dwelling-secured loans should be excluded from the requirements of the regulation, which types of loans should be excluded, and how this proposed modification might affect a financial institution's Community Reinvestment Act reporting requirements. In addition, to address the concerns raised about commercial credit, the Bureau solicits feedback regarding the extent to which members of the public would use data related to business-purpose loans to determine whether financial institutions are fulfilling their obligations to serve community housing needs, whether dwelling-secured loans used for business purposes should be excluded from the scope of the regulation, and information related to the potential compliance costs associated with business-purpose loans. Finally, with respect to the concerns raised by small financial institutions about applying the reporting requirements to loans for business purposes, the Bureau solicits feedback regarding whether any modifications to or exclusions from the requirements of proposed § 1003.4(a) would be appropriate if the Bureau decides against excluding business-purpose loans from the reporting requirements.

2(e) Covered Loan

While HMDA section 303(2) defines a ''mortgage loan'' as a loan which is secured by residential real property or a home improvement loan, Regulation C does not currently contain a defined term that includes all mortgage loans within the scope of the regulation. The Bureau has received feedback indicating that many members of industry find the regulation confusing and experience compliance challenges when determining whether and how to report the data. The Bureau believes that some of this confusion results from the current structure of the regulation, which links certain requirements to loan types, such as home-equity lines of credit, and other requirements to loan purposes, such as refinancings. Establishing clearly delineated boundaries between loan types and loan purposes will help clarify the regulation, and a new defined term that includes all types of loans subject to Regulation C should make subsequent references in the regulation easier to understand.

Accordingly, the Bureau is proposing § 1003.2(e), which defines a ''covered loan'' as a transaction that is, as applicable, a closed-end mortgage loan under § 1003.2(d), an open-end line of credit under § 1003.2(o), or a reverse mortgage under § 1003.2(q). The Bureau solicits feedback regarding whether this new proposed definition is appropriate. The Bureau is not proposing commentary to proposed § 1003.2(e) because the Bureau believes that this proposed definition is straightforward and clear. However, the Bureau solicits feedback regarding whether commentary is needed to clarify this proposed definition or to facilitate compliance.

2(f) Dwelling

Although HMDA does not use or define the term ''dwelling,'' the term has been included in some form in Regulation C since 1976[191] and is

[183] ''There was general agreement among depository institutions and consumer and public interest groups that inclusion of mortgage loans unrelated to housing needs would distort the data from the standpoint of the purposes of the Act . . . . The Board believes that repeated references to in the legislative history of the Act to 'homeownership and home repair' support a narrower definition of mortgage loan than was proposed.'' *Id.*

[184] ''A significant part of the default crisis is driven by existing homeowners borrowing heavily against the rising value of their house.'' Atif Mian & Amir Sufi, *House Prices, Home Equity-Based Borrowing, and the U.S. Household Leverage Crisis,* 101 a.m. Econ. Rev. 2132, p. 2154 (Aug. 2011).

[185] ''The largest share of [closed-end second-lien] mortgages went to borrowers with relatively low quality non-prime mortgages. The large growth of [closed-end second-lien] mortgages in 2006 to 2007 primarily went to borrowers with non-prime first liens that would eventually default at very high rates.'' Donghoon Lee, et al., *A New Look at Second Liens,* Fed. Reserve Bank of New York Staff Report No. 569, at 11 (Aug. 2012).

[186] *See* Vicki Been, et al., Furman Center for Real Estate & Urban Policy, *Essay: Sticky Seconds—The Problems Second Liens Pose to the Resolution of Distressed Mortgages,* 13–18 (Aug. 2012).

[187] *See* Small Business Review Panel Report at 24, 37, 59, 78, and 85.

[188] *See id.* at 24, 27, 30, 33, 38, 39, 40. 42, 52, 62, 75, 81, 94, 95, 101, 126, and 129.

[189] *See id.* at 38.

[190] *Id.*

[191] 41 FR 23932 (June 14, 1976).

important to scope, reporting, and coverage under Regulation C. Regulation C defines a dwelling as a residential structure (whether or not attached to real property) located within a U.S. State, the District of Columbia, or Puerto Rico. Regulation C provides that the definition of a dwelling includes, but is not limited to, condominium units, cooperative units, and mobile or manufactured homes.[192] Regulation C commentary interprets the term dwelling to include vacation and second homes, rental properties and multifamily structures.[193] Recreational vehicles such as boats or campers, and transitory residences such as hotels, hospitals, and dormitories are not included in the definition.[194]

Financial institutions have reported that they experience compliance burden in determining whether certain properties are dwellings under Regulation C, and whether the loan or application associated with such properties should be reported on the loan application register. Financial institutions report difficulty in determining coverage for loans secured by homes that are converted to commercial purposes, such as homes converted to daycare centers or professional offices; recreational vehicles that are used as residences; park model recreational vehicles; houseboats and floating homes; and certain mobile homes that do not meet the definition of a manufactured home.[195]

The Bureau is proposing to revise the definition of dwelling in § 1003.2 to provide additional clarity. Specifically, the Bureau proposes to move the geographic location requirement currently in the definition of dwelling to § 1003.1(c) and to add examples of dwellings to the commentary. The proposed examples have long been understood to be dwellings under Regulation C, and the revision is intended solely for clarity and illustration. The proposal revises comment Dwelling-1 to refer to investment properties rather than rental properties for consistency with terms used in the proposal regarding reporting of owner-occupancy status under § 1003.4(a)(6). The proposal also revises comment Dwelling-1 to list condominium and cooperative buildings as additional examples of multifamily residential structures, and to provide that both multifamily complexes and individual buildings are covered. The Bureau solicits feedback on whether additional guidance is necessary to distinguish when multiple multifamily buildings should be considered part of the same complex and multifamily dwelling or when they should be considered separate properties and how to distinguish these scenarios.

The proposed definition in § 1003.2 would no longer refer to mobile homes, to reduce any confusion with the current definition of manufactured home. The HUD standards for manufactured homes do not cover mobile homes constructed before June 15, 1976, and these would not be covered by the proposed definitions of manufactured home or dwelling for purposes of Regulation C.[196] Comment Dwelling-1 would be revised accordingly. The Bureau believes that reported information about covered loans and applications secured by pre-1976 mobile homes may not be useful given the limited volume of such loans and the difference in pricing and terms when compared to covered loans related to manufactured homes. Additionally, the Bureau believes that even if these dwellings were identified separately from manufactured homes, financial institutions would experience compliance burden in determining whether the homes are manufactured homes or pre-1976 mobile homes. However, the Bureau solicits feedback on whether this exclusion is appropriate or whether such homes should be included in the definition of dwelling under Regulation C and, if so, whether an additional enumeration should be added to the construction method reporting requirement under proposed § 1003.4(a)(5) for such loans.

The proposal clarifies that recreational vehicles are not considered dwellings under Regulation C even if they are used as residences. The current commentary provides that recreational vehicles such as campers and boats are not dwellings for purposes of Regulation C. However, financial institutions have reported confusion with the comment where the recreational vehicle is used as a residence. For example, in some cases borrowers use campers or boats that were not designed as permanent dwellings as residences. Financial institutions have also reported confusion about park model recreational vehicles, which are recreational vehicles which share some characteristics of manufactured homes but are excluded from the HUD standards for manufactured housing as recreational vehicles.[197] Proposed comment 2(f)–2 provides that recreational vehicles, including boats, campers, travel trailers, and park model recreational vehicles, are not considered dwellings for purposes of § 1003.2(f), regardless of whether they are used as residences.

Regarding houseboats and floating homes that may be used as residences, certain financial institutions in areas where houseboats and floating homes are more common report loans related to floating homes and houseboats on their loan application registers. These institutions may receive consideration under the CRA for financing houseboats or floating homes. The Bureau recognizes that while these loans may provide housing for certain communities, the Bureau believes that financing of such loans is different from other home loans and the incidence of such housing is highly localized. Unlike manufactured housing, discussed below, usage and financing of houseboats and floating homes is not as prevalent, and the small number of houseboats used as residences suggests that loans secured by such properties should not be included in HMDA data.[198] Therefore, the Bureau believes that excluding houseboats and floating homes will facilitate compliance with HMDA. However, the Bureau solicits feedback on whether these exclusions are appropriate.

The proposal would differ from Regulation Z's definition of dwelling, which treats recreational vehicles used as residences as dwellings. 12 CFR part 1026, comment 2(a)(19)–2. When the Bureau's 2011 Regulation C Restatement was published, industry trade associations asked the Bureau to align key definitions among various regulations, including the definition of dwelling. As discussed above, the proposal does not align the Regulation C definition with Regulation Z. Instead, it would exclude certain structures which may be covered by Regulation Z and provide more clarity on certain structures. The Bureau believes that additional guidance in this area and an exclusion for certain structures will reduce burden for financial institutions. However, the Bureau solicits feedback on whether financial institutions would prefer to report loans and applications for these types of structures that may be

[192] 12 CFR 1003.2 (definition of dwelling).

[193] 12 CFR 1003.2, comment Dwelling–1.

[194] 12 CFR 1003.2, comment Dwelling–2.

[195] Specifically, financial institutions report difficulty in determining coverage for mobile homes built prior to June 15, 1976, which are not covered by the HUD standards for manufactured homes.

[196] 24 CFR 3282.8(a).

[197] 24 CFR 3282.8(g).

[198] The Bureau understands that relatively few houseboats and recreational vehicles are used as residential dwellings. Based on 2008–2012 American Community Survey estimates, 108,654 of the total 131,642,457 total housing units in the United States (0.1 percent) were vans, recreational vehicles, or boats.

considered dwellings under Regulation Z rather than having them excluded from the Regulation C reporting requirements as proposed.

The proposal revises the sentence in the comment Dwelling-2 regarding transitory residences to delete the reference to principal residences elsewhere because the explanation is inconsistent with the standard articulated in the commentary regarding non-principal residences such as second homes. The Bureau believes that this exclusion is better explained by the transitory nature of such structures. The proposal provides that structures designed for residential purposes but used exclusively for commercial purposes would not be dwellings under Regulation C and provides examples of daycare facilities and professional offices. The Bureau solicits feedback regarding whether the proposed revisions provide institutions with sufficient clarity to identify transactions that must be reported and whether any additional exclusions or examples would be appropriate.

During the Small Business Review Panel process, one small entity representative requested guidance on how to account for mixed-used buildings.[199] Commentary under the definitions of home improvement loan and home purchase loan provides guidance on whether loans secured by mixed-use property are reportable by allowing institutions to use any reasonable standard to determine the primary use of the property. The Bureau is proposing to add new comment 2(f)–3 regarding mixed-use property, which is adapted from the comments currently provided. The Bureau believes that the issues associated with identifying mixed-use property are common to all types of dwelling-secured loans and it may facilitate compliance to include the discussion of the issue under the definition of dwelling. The comment also provides that if a property contains five or more individual dwelling units, a financial institution should consider it to have a primary residential use. The Bureau believes that even if such properties also contain commercial space, five individual dwelling units is sufficient residential use to require coverage. This would be consistent with the proposal's new definition of a multifamily dwelling, discussed below in the section-by-section analysis of proposed § 1003.2(n). The Bureau solicits feedback on whether it would be preferable to establish a bright-line rule for mixed-use property. Specifically, the Bureau solicits feedback on whether a mixed-use property should be reported if it includes any individual dwelling units, or whether a clear standard can be provided for mixed-used property with a *de minimis* residential component to be excluded.

Proposed section§ 1003.2(f) is proposed to implement, in part, the definition of ''mortgage loan'' in HMDA section 303(2). That term would be implemented through other terms in Regulation C as well, including the proposed definitions of ''closed-end mortgage loan'' and ''covered loan.'' In combination with other relevant provisions in Regulation C, the Bureau believes that the proposed definition of ''dwelling'' is a reasonable interpretation of the definition in that provision. Section 1003.2(f) is also proposed pursuant to the Bureau's authority under section 305(a) of HMDA. Pursuant to section 305(a) of HMDA, the Bureau believes that this proposed definition is necessary and proper to effectuate the purposes of HMDA. The proposed definition will serve HMDA's purpose of providing information to help determine whether financial institutions are serving the housing needs of their communities by providing information about various types of housing that are financed by financial institutions. The definition will facilitate compliance with HMDA requirements by providing clarity regarding what transactions must be reported for purposes of Regulation C.

2(g) Financial Institution

Regulation C requires institutions that meet the definition of financial institution to collect and report HMDA data. HMDA and Regulation C establish different coverage criteria for depository institutions (banks, savings associations, and credit unions) than for nondepository institutions (for profit-mortgage-lending institutions).[200] Depository institutions that originate one first-lien home purchase loan or refinancing secured by a one-to-four unit dwelling and that meet other criteria for ''financial institution'' must collect and report HMDA data, while certain nondepository institutions that originate many more mortgage loans annually do not have to collect and report HMDA data. The Bureau believes that this approach may exclude important data about nondepository institutions' practices and may inappropriately burden depository institutions that originate a small number of mortgage loans.

The Bureau proposes to adjust Regulation C's institutional coverage to adopt a uniform loan volume threshold of 25 loans applicable to all financial institutions (25-loan volume test). Under the proposal, depository and nondepository institutions that meet all of the other criteria for a ''financial institution'' would be required to report HMDA data if they originated at least 25 covered loans, excluding open-end lines of credit, in the preceding calendar year.

The proposed loan volume test would improve the availability of data concerning the practices of nondepository institutions, where information is needed. The Bureau estimates that the proposed coverage criteria may increase the number of nondepository institutions covered by HMDA by as much as 40 percent and the number of reported originations and applications by nondepository institutions by as much as 6 percent. As discussed below, this information is important because Congress and other stakeholders have raised concerns about the practices of, and loan products offered by, nondepository institutions generally and their role in the broader financial crisis. With data from additional nondepository institutions, the public and public officials would be better able to evaluate whether those institutions are serving the housing needs of their communities and whether those institutions' practices pose possible fair lending risks. In addition, the data would allow the public and public officials to identify emerging products and practices in the nondepository mortgage market that may pose risks to consumers.

Furthermore, the Bureau believes that the proposed 25-loan volume test may appropriately reduce the burdens on depository institutions that make very few loans while maintaining coverage of a relevant, diverse set of reporting institutions and reported transactions. The Bureau believes that eliminating reporting by lower-volume depository institutions may be a way to reduce burden without impacting the quality of HMDA data. As discussed below, the Bureau believes that the loss of data from depository institutions that originate fewer than 25 loans in a calendar year would not significantly impact the utility of HMDA data for analyzing mortgage lending at the national, local, and institutional levels.

In addition, the proposed 25-loan volume test may simplify the reporting regime by providing a consistent loan volume benchmark across all financial institutions. Institutions that originate 25 loans likely face similar burdens associated with HMDA reporting,

[199] *See* Small Business Review Panel Report at 80.

[200] *See* Section 1003.2 (definition of financial institution); HMDA sections 303(3), 309(a).

regardless of whether the institution is a depository or nondepository institution. Thus, setting a consistent loan volume threshold across all financial institutions may spread the burden of reporting more evenly among lower-volume institutions. The specific proposed changes to the definition of financial institution applicable to nondepository and depository institutions are discussed below separately.

Coverage of Nondepository Financial Institutions

HMDA extends reporting responsibilities to certain nondepository institutions, defined as any person engaged for profit in the business of mortgage lending other than a bank, savings association, or credit union.[201] HMDA section 309(a) also authorizes the Bureau to adopt an exemption for covered nondepository institutions that are comparable within their respective industries to banks, savings associations, and credit unions with $10 million or less in assets in the previous fiscal year.[202]

Under the current definition of financial institution in § 1003.2, a nondepository institution is a financial institution if it meets three criteria. First, the institution satisfies the following loan volume or amount test: In the preceding calendar year, the institution originated home purchase loans, including refinancings of home purchase loans, that equaled either at least 10 percent of its loan-origination volume, measured in dollars, or at least $25 million.[203] Second, on the preceding December 31, the institution had a home or branch office in an MSA.[204] Third, the institution meets one of the following two criteria: (a) On the preceding December 31, the institution had total assets of more than $10 million, counting the assets of any parent corporation; or (b) in the preceding calendar year, the institution originated at least 100 home purchase loans, including refinancings of home purchase loans.[205]

As discussed below, the Bureau proposes to modify the coverage criteria applicable to nondepository institutions by replacing the current loan volume or amount test with the same 25-loan volume test that the Bureau proposes for depository institutions. Under this approach, a nondepository institution would be required to report HMDA data if it had a home or branch office in an MSA on the preceding December 31 and it originated at least 25 covered loans, excluding open-end lines of credit, in the preceding calendar year. For the reasons discussed below, the Bureau believes that it may be appropriate to adopt a different formulation for determining whether a nondepository institution is ''engaged for profit in the business of mortgage lending'' than the formulation adopted by the Board and to eliminate the asset-size and loan volume exemption for nondepository institutions pursuant to its discretionary authority under HMDA section 309(a).

The need for greater visibility into nondepository institution practices. During the years leading up to the financial crisis, many stakeholders expressed concern over the lack of visibility into nondepository institution activity in the mortgage market. Concerns about nondepository institution involvement in the subprime market motivated the Board to expand nondepository institution coverage in 2002.[206] A 2007 report by the U.S. Government Accountability Office (GAO) also raised concerns that nondepository institutions, which were not subject to regular Federal examination at the time, ''may tend to originate lower-quality loans.'' [207] GAO found that 21 of the 25 largest originators of subprime and Alt-A loans in 2006 were nondepository institutions and that those 21 nondepository institutions had originated over 80 percent in dollar volume of the subprime and Alt-A loans originated in 2006.[208]

In the aftermath of the financial crisis, Congress and other stakeholders expressed concerns about the lending practices of nondepository institutions generally and called for greater oversight of those institutions.[209] In the Dodd-Frank Act, Congress granted Federal supervisory authority to the Bureau over certain nondepository institutions because it was concerned about nondepository institutions' practices generally and believed that the lack of Federal supervision of those institutions had contributed to the financial crisis.[210] In addition, a 2009 GAO study found that nondepository institutions that reported HMDA data had a higher incidence of potential fair lending problems than depository institutions that reported HMDA data.[211] GAO also suggested that the loan products and marketing practices of those nondepository institutions may have presented greater risks for applicants and borrowers.[212] Moreover, community advocates and Federal agencies urged the Board during the Board's 2010 Hearings to expand HMDA's institutional coverage to include lower-volume nondepository institutions because they were active in the mortgage market and the lack of visibility into their practices created risks for communities.[213] In addition,

[201] *See generally* HMDA sections 303(5) (defining other lending institutions), 303(3)(B) (including other lending institutions in the definition of depository institution), and 304(a) (requiring depository institutions to collect, report, and disclose certain data if the institution has a home or branch office located in an MSA), 12 U.S.C. 2802(5), 2802(3), 2803(a).

[202] *See* HMDA section 309(a), 12 U.S.C. 2808(a).

[203] The Board adopted the 10 percent loan volume test in 1989 to implement the 1989 FIRREA amendments, which extended HMDA's reporting requirements to institution's ''engaged for profit in the business of mortgage lending.'' *See* 54 FR 51356, 51358–59 (Dec. 15, 1989). In 2002, the Board modified the test and added the $25 million loan volume test to require reporting by additional nondepository institutions. *See* 67 FR 7222, 7224 (Feb. 15, 2002).

[204] Under § 1003.2 (definition of branch office), a nondepository institution has a branch office in an MSA if it originated, received applications for, or purchased five or more covered loans in that MSA.

[205] In 1989, the $10 million asset test, derived from section 309, applied to both depository and nondepository institutions. *See* 54 FR 51356, 51359 (Dec. 15, 1989). Because the 1989 amendments failed to cover as many nondepository lenders as Congress had intended, in 1991, Congress amended the asset test in HMDA section 309 to apply only to depository institutions, and it granted the Board discretion to exempt comparable nondepository institutions. *See* Public Law 102–242, section 224 (1991). Pursuant to that authority, the Board added the 100 loan volume test for nondepository institutions in 1992. *See* 57 FR 56963, 56964–65 (Dec. 2, 1992).

[206] *See* 65 FR 78656, 78657 (Dec. 15, 2000) (proposing changes to coverage of nondepository institutions); 67 FR 7222, 7224–25 (Feb. 15, 2002) (finalizing changes to coverage of nondepository institutions).

[207] *See* U.S. Gov't Accountability Office, GAO–08–78R, *Briefing to the Committee on Financial Services House of Representatives, ''Home Mortgage Defaults and Foreclosures: Recent Trends and Associated Economic Developments* 54 (2007), *http://www.gao.gov/assets/100/95215.pdf.*

[208] *Id.*

[209] *See, e.g.,* House Consideration of HR 4173, 155 Cong. Record H14430 (daily ed. Dec. 9, 2009) (statement of Cong. Ellison (MN), ''One of the most important causes of the financial crisis, as I mentioned, is the utter failure of consumer protection. The most abusive and predatory lenders were not federally regulated, were not regulated at all in some cases, while regulation was overly lax for banks and other institutions that were covered.''); U.S. Gov't Accountability Office, GAO–09–704, Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts 28–29 (2009), *available at http://www.gao.gov/new.items/d09704.pdf.*

[210] *See* Dodd-Frank Act section 1024.

[211] *See* GAO–09–704, at 28–29 (''[I]ndependent lenders and nonbank subsidiaries of holding companies are more likely than depository institutions to engage in mortgage pricing discrimination.'').

[212] *Id.* at 29–30. *See also* GAO–08–78R, at 54.

[213] *See, e.g.,* San Francisco Hearing, *supra* note 133; Washington Hearing, *supra* note 130 (remarks of Faith Schwartz, Senior Advisor, HOPE NOW Alliance) (urging reporting by all institutions that have ''any meaningful originations''); *id.* (remarks of Allison Brown, Acting Assistant Director, Division of Financial Practices, Federal Trade

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officials that participated in the Financial Crisis Inquiry Commission hearings in 2010 noted that practices that originated in the nondepository mortgage sector, such as lax underwriting standards and loan products with potential payment shock, created competitive pressures on depository institutions to follow the same practices, which may have contributed to the broader financial crisis.[214]

Because of this history, the Bureau believes that it may be appropriate to increase transparency into mortgage lending by nondepository institutions. Currently, there are fewer publicly available data about nondepository institutions than about depository institutions. The differing institutional coverage criteria currently in Regulation C result in HMDA data including more information about lower-volume depository institutions, which may be required to report even if they originated only one mortgage loan in the preceding calendar year, than about lower-volume nondepository institutions, which may not be required to report unless they originated 100 applicable loans in the preceding calendar year and met other loan amount thresholds.[215] In addition, outside of HMDA, there are less publicly available data about nondepository institutions than about depository institutions. Depository institutions, even those that do not report HMDA data, report detailed financial information at the bank level to the Federal Deposit Insurance Corporation (FDIC) or to the National Credit Union Association (NCUA), much of which is publicly available.[216] Nondepository institutions, on the other hand, report some data to the Nationwide Mortgage Licensing System and Registry (NMLSR), but detailed financial information and data on mortgage applications and originations are not publicly available.[217]

As a result, the public and public officials face challenges analyzing whether lower-volume nondepository institutions are serving the housing needs of their communities. The lack of data from lower-volume nondepository institutions may also hinder the ability of the public and public officials to understand access to and sources of credit in particular communities. For example, HMDA data users cannot as easily identify a higher concentration of risky loan products in a given community. In addition, with the current HMDA data, the public and public officials cannot readily understand whether a lower-volume nondepository institution's practices pose potential fair lending risks. The lack of data from lower volume nondepository institutions may also make it more difficult for the public and public officials to identify trends in the nondepository mortgage market that pose potential risks, such as the emergence of new loan products or underwriting practices. Requiring additional nondepository institutions to report HMDA data may help resolve many of these problems and may provide greater visibility into the nondepository mortgage market sector.

The 25-loan volume test. Due to the questions raised about potential risks posed to applicants and borrowers by nondepository institutions and the lack of other publicly available data sources about nondepository institutions, the Bureau believes that requiring additional nondepository institutions to report HMDA data may better effectuate HMDA's purposes. The Bureau estimates that the proposed 25-loan volume test, in place of Regulation C's current loan volume and amount and asset thresholds for nondepository coverage, would increase the number of nondepository institutions required to report HMDA data by as much as 40 percent and the number of originations and applications reported by those institutions by as much as 6 percent. This additional data may provide valuable information about the nondepository sector of the mortgage market, such as emerging products or underwriting practices or a higher concentration of particularly risky loan products in a given community.

In addition, the proposed change in coverage may support the Bureau's supervision of nondepository institutions. The Dodd-Frank Act granted Federal supervisory authority to the Bureau over certain nondepository institutions.[218] The proposed change in coverage will increase the number of nondepository institutions that report HMDA data and may provide HMDA data for nondepository institutions that the Bureau now supervises. This data may assist the Bureau in identifying lower-volume nondepository institutions that pose possible fair lending risks.

Loan volume or amount test. The Bureau's proposal would eliminate the existing loan volume or amount test for nondepository institutions (*i.e.,* the test that provides that, in the preceding calendar year, the institution must have originated home purchase loans, including refinancings of home purchase loans, that equaled either at least 10 percent of its loan-origination volume, measured in dollars, or at least $25 million.) The Bureau believes that replacing the existing loan volume or amount test with the proposed 25-loan volume test may be appropriate. The current loan volume or amount test implements HMDA sections 303(3)(B) and 303(5), which require persons other than banks, savings associations, and credit unions that are ''engaged for profit in the business of mortgage lending'' to report HMDA data. When the Board initially implemented this provision, it explained that it interpreted the provision to evince the intent to exclude from coverage institutions that make a relatively small volume of mortgage loans.[219] The Bureau agrees with the Board's interpretation but believes that Regulation C's current coverage test for nondepository institutions may inappropriately exclude nondepository institutions that are engaged for profit in the business of mortgage lending. The Bureau estimates that financial institutions that reported 25 loans in HMDA for the 2012 calendar year

Commission) (urging expanded reporting by nondepository institutions ''to ensure that all nondepositories that made significant numbers of mortgage decisions report these essential data, providing the government and the public an accurate, timely picture of mortgage lending activity''); *id.* (remarks of Michael Bylsma, Director for Community and Consumer Law, Office of the Comptroller of the Currency) (urging the Board to ''review whether its rule-making authority'' would permit it to expand HMDA coverage to additional institutions); Atlanta Hearing, *supra* note 131.

[214] *See* Official Transcript, First Public Hearing of the Financial Crisis Inquiry Commission, 97–98 (Jan. 10, 2010), (remarks of Sheila C. Bair, Chairman, Federal Deposit Insurance Corporation, and Mary L. Schapiro, Chairman, U.S. Securities and Exchange Commission), *available at http://fcic-static.law.stanford.edu/cdn_media/fcic-testimony/2010–0114-Transcript.pdf.*

[215] Banks, savings associations, and credit unions are required to report if they originate at least one home purchase or refinancing of a home purchase loan secured by a first lien on a one-to-four family dwelling and if they meet the other criteria in the definition of financial institution. *See* Section 1003.2 (definition of financial institution).

[216] Every national bank, State member bank, and insured nonmember bank is required by its primary Federal regulator to file consolidated Reports of Condition and Income, also known as Call Report data, for each quarter as of the close of business on the last day of each calendar quarter (the report date). The specific reporting requirements depend upon the size of the bank and whether it has any foreign offices. *See, e.g.,* FDIC, Call and Thrift Financial Reports, *http://www2.fdic.gov/call_tfr_rpts/.* Credit unions are also required to report Call Report data to NCUA. *See, e.g.,* NCUA, 53000 Call Report Quarterly Data, *http://www.ncua.gov/DataApps/QCallRptData/Pages/default.aspx.*

[217] NMLSR is a national registry of nondepository institutions. Nondepository institutions report information about mortgage loan originators, mortgage loan originations, the number and dollar amount of loans brokered, and HOEPA originations.

[218] *See* Dodd-Frank Act section 1024.

[219] *See* 54 FR 51356, 51358–59 (Dec. 15, 1989).

originated an average of approximately $5,359,000 in covered loans. Given this level of mortgage activity, and consistent with the policy reasons discussed above, the Bureau believes that it may be appropriate to interpret ''engaged for profit in the business of mortgage lending'' to include nondepository institutions that originated 25 or more covered loans, excluding open-end lines of credit, in the preceding calendar year.

As discussed below under the coverage criteria for depository institutions, the Bureau believes that it may not be appropriate to require institutions that originate fewer than 25 covered loans annually, excluding open-end lines of credit, to report HMDA data. The Bureau believes that the costs to institutions that originate fewer than 25 covered loans may not be justified by the benefit from the data collected from those institutions.

Replacing the current loan volume or amount test for nondepository institutions with the proposed 25-loan volume test may also simplify the nondepository coverage criteria. The Bureau has received feedback that the current loan volume or amount test, which is in part based on the percentage of an institution's total loan origination volume in dollars, is difficult both for institutions and public officials to calculate because many institutions do not otherwise measure or report their overall loan origination volume.[220]

Nondepository asset-size or loan volume exemption. As discussed above, Regulation C's current coverage criteria for nondepository institutions includes the following asset-size or loan volume thresholds: The institution must either have had total assets of more than $10 million (including assets of any parent corporation) on the preceding December 31, or it must have originated at least 100 home purchase loans, including refinancings of home purchase loans, in the preceding calendar year.[221] The Board implemented this coverage requirement as an exercise of its discretion to exempt certain nondepository institutions.[222] HMDA section 309(a) states that, after consultation with the HUD Secretary, the Bureau may, but is not required to, exempt other lending institutions that are comparable within their respective industries to a bank, savings association, or credit union that had total assets of $10,000,000 or less as of its last fiscal year, not adjusted for inflation. Due to changes in the mortgage market and for the reasons given above, the Bureau believes that it may be appropriate to exercise its discretion under HMDA section 309(a) to no longer exempt certain nondepository institutions. The Bureau solicits feedback on whether, and if so to what extent, an asset-size exemption for nondepository institutions should be retained.

The Bureau's proposal. For the reasons discussed above, the Bureau proposes to modify the current definition of financial institution in § 1003.2 as it relates to for-profit mortgage-lending institutions. Proposed § 1003.2(g)(2) provides that the term financial institution includes a nondepository financial institution, which means a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) that meets the following two requirements: First, on the preceding December 31, the institution must have had a home or branch office in an MSA. Second, in the preceding calendar year, the institution must have originated at least 25 covered loans, excluding open-end lines of credit. The Bureau seeks comment on the benefits and burdens associated with the proposed modification to nondepository institution coverage. The Bureau seeks comment on whether it has appropriately calibrated the loan volume test in terms of the number of loans included. There may be advantages to setting the loan volume test at higher or lower levels in terms of the quality and quantity of the data collected. In addition, the Bureau solicits comment on whether the loan volume test excludes important data about particular types of transactions, such as multifamily loans. The Bureau also solicits feedback on whether nondepository institutions that do not satisfy the proposed 25-loan volume test are comparable within their respective industries to depository institutions with $10 million or less in assets.

By requiring data from a broader range of nondepository institutions, the Bureau believes that this proposed provision would ensure that the public and public officials are provided with sufficient information to enable them to determine whether financial institutions are fulfilling their obligations to serve the housing needs of communities and neighborhoods in which they are located. Furthermore, these data would assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment. In addition, because nondepository institutions pose different fair lending risks than depository institutions, the proposed changes would ensure that the public and public officials are provided with sufficient information to identify potential fair lending concerns.

Coverage of Depository Financial Institutions

HMDA extends reporting responsibilities to depository institutions that satisfy certain location, asset-threshold, and federally related requirements.[223] Regulation C implements HMDA's coverage criteria in the definition of financial institution in § 1003.2. Under the definition of financial institution in § 1003.2, a bank, savings association, or credit union meets the definition of financial institution if it satisfies all of the following criteria: (1) On the preceding December 31, it had assets of at least $43 million;[224] (2) on the preceding December 31, it had a home or branch office in an MSA; (3) during the previous calendar year, it originated at least one home purchase loan or refinancing of a home purchase loan secured by a first-lien on a one-to-four unit dwelling; and (4) the institution is Federally insured or regulated, or the mortgage loan referred to in item (3) was insured, guaranteed, or supplemented by a Federal agency or intended for sale to Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.[225] For the reasons discussed below, the Bureau proposes an additional loan-volume threshold to the coverage criteria for depository institutions. The new criterion would require reporting only by depository institutions that meet the current criteria in § 1003.2 and that originated at least 25 covered loans, excluding open-end lines of credit, in the preceding calendar year.

As part of this rulemaking, the Bureau is seeking ways to reduce burden without impairing the quality of HMDA data. Participants in the Board's 2010 Hearings urged the Board to eliminate reporting by lower-volume depository institutions.[226] The Bureau believes that eliminating reporting by lower-volume depository institutions may be a way to reduce burden without impacting the ability of HMDA to achieve its purposes.

[220] *See* Washington Hearing, *supra* note 130.

[221] *See* § 1003.2(2)(iii) (definition of financial institution).

[222] *See* 54 FR 51356, 51358–59 (Dec. 15, 1989); 57 FR 56963, 56964–65 (Dec. 2, 1992).

[223] *See* 12 U.S.C. 2802(3).

[224] *See* Comment Financial institution-2 to § 1003.2.

[225] See Section 1003.2(financial institution)(1).

[226] *See, e.g.,* Atlanta Hearing, *supra* note 131, (remarks of Phil Greer, Senior Vice President of Loan Administration, State Employees Credit Union) (noting that the burden of reporting only one loan would be low, but that the data reported would not provide ''meaningful information'').

Cumulatively, the loans made by depository institutions that originated fewer than 25 covered loans account for a very small percentage of all loans reported under HMDA. For example, the loans reported by depository institutions that originated fewer than 25 covered loans, excluding open-end lines of credit, accounted for less than one percent of originations reported by depository institutions for the 2012 calendar year. Depository institutions that originated fewer than 25 covered loans, excluding open-end lines of credit, accounted for approximately 25 percent of depository institutions that reported HMDA data for the 2012 calendar year. Moreover, as discussed below in part VI, loans made by these depository institutions do not represent a significant portion of lending in most local markets. Therefore, eliminating reporting by these depository institutions may not affect HMDA's ability to provide data to analyze whether communities or markets could benefit from private or public sector investment. In addition, HMDA data collected from depository institutions with fewer than 25 loans may not be useful for statistically analyzing an individual institution's lending to identify possible discriminatory lending patterns and enforce antidiscrimination statutes. Finally, the proposed 25-loan volume test may not impact HMDA's utility as a tool to evaluate whether depository institutions are serving the needs of the communities that they serve. Therefore, the Bureau believes that adding a 25-loan volume test to the current coverage criteria for depository institutions may appropriately balance the burden of HMDA reporting with the benefits to the public and public officials provided by the reported data.

Eliminating reporting by depository institutions that originate fewer than 25 loans annually also is consistent with the Bureau's proposal discussed below to require electronic reporting by all institutions. Currently, only institutions that report 25 or fewer entries annually are permitted to submit the loan application register in paper form.[227] As discussed in the section-by-section analysis of proposed § 1003.5(a), the Bureau proposes to eliminate that option.

For the reasons discussed above, the Bureau proposes that § 1003.2(g)(1), the proposed definition of depository financial institution, include a new criterion: in the preceding calendar year, the institution originated at least 25 covered loans, excluding open-end lines of credit. The Bureau is also proposing technical changes to paragraph one of the definition of financial institution included in § 1003.2. The Bureau solicits comment on the proposed 25-loan volume test, including (1) the extent to which it may exclude valuable data, (2) whether it would prevent public officials and the public from understanding if the institutions excluded by the proposed 25-loan volume test are serving the needs of their communities, and (3) whether it would prevent public officials and the public from identifying geographic areas that may benefit from private and public sector investment. The Bureau also solicits comment on whether the proposed 25-loan volume test may exclude data that are valuable for identifying possible fair lending issues.

The Bureau also solicits comment on whether the loan-volume test for depository financial institutions excludes important data about particular types of transactions, such as multifamily loans. As discussed more fully below in part VI, the applications and originations reported in 2012 by depository institutions that originated 25 or fewer covered loans have different characteristics than overall HMDA data. For example, applications and originations reported by lower-volume depository institutions were more likely to have higher interest rates, lower loan amounts, relate to manufactured housing or to multifamily properties, and to be portfolio loans than those reported by depository institutions that originated more than 25 covered loans. The Bureau also seeks comment on whether it has appropriately calibrated the proposed loan-volume test for depository financial institutions in terms of the number of loans included. There may be advantages to setting the volume test at higher or lower levels in terms of the quality and quantity of the data collected.

The Bureau proposes § 1003.2(g)(1), the proposed definition of depository financial institution, pursuant to its authority under section 305(a) of HMDA to provide for such adjustments and exceptions for any class of transactions that the Bureau judges are necessary and proper to effectuate the purposes of HMDA. Pursuant to section 305(a) of HMDA, for the reasons given above, the Bureau believes that this proposed exception is necessary and proper to effectuate the purposes of HMDA. By reducing burden on financial institutions and establishing a consistent loan-volume test applicable to all financial institutions, the Bureau believes that the proposed provision would facilitate compliance with HMDA's requirements.

Composition of Loan-Volume Test

The Bureau analyzed HMDA data to determine the optimal loan volume threshold to propose. As discussed above, the Bureau aims to propose a loan volume test that would reduce burden while maintaining sufficient data for meaningful analysis at the institution, local, and national levels. The Bureau excluded open-end lines of credit from the data it used for this analysis because HMDA data currently does not include comprehensive data on open-end lines of credit. Specifically, under the current rule financial institutions may but are not required to report data on home-equity lines of credit. In addition, other open-end lines of credit, such as commercial lines, are not currently reported. As a result, the Bureau's proposed loan volume threshold also excludes open-end lines of credit from the loans that count toward the proposed 25-loan volume test.

The Bureau solicits feedback on whether it should include open-end lines of credit in the types of loans that count toward the proposed loan volume threshold in light of the potential value of information about open-end lines of credit discussed further in the section-by-section analysis of proposed § 1003.2(o) below. The Bureau solicits information that would allow it to estimate the impact on HMDA data if open-end lines of credit were excluded from or included in the loan volume threshold. The Bureau is particularly interested in determining the types of institutions that would be covered or not covered, the types of mortgage businesses in which they engage, and the communities they serve.

During the Small Business Review Panel process, small entity representatives generally supported the proposal to establish a uniform loan-volume threshold. The Panel recommended that the Bureau consider revisions to Regulation C that would simplify and clarify whether a financial institution is required to report HMDA data.[228] In addition, the Panel recommended that the Bureau solicit feedback to help the Bureau establish an appropriate loan-volume threshold that would minimize the burden on small entities while ensuring adequate data collection to fulfill HMDA's objectives.[229] The Panel also recommended that the Bureau solicit

[227] *See* Comment 5(a)–2.

[228] *See, e.g.,* Small Business Review Panel Report at 37.

[229] *See id.*

feedback on the types of mortgage loans that should count toward the loan-volume test.[230] In addition, the Panel recommended that the Bureau consider whether a multiyear look-back period would establish more predictable coverage obligations for small financial institutions.[231] Consistent with the Panel's recommendation, as discussed above, the Bureau solicits feedback on all aspects of the proposed 25-loan volume test, including the number and types of loans that should be included. The Bureau solicits feedback on whether a multiyear look-back period would ease the burdens associated with unpredictable compliance obligations that may result from the proposed 25-loan volume test.

To clarify the definition of financial institution and facilitate compliance, the Bureau also proposes to modify and to renumber the commentary to the definition of financial institution. Proposed comment 2(g)–1 discusses the meaning of the preceding calendar year and the preceding December 31 and provides an illustrative example. Proposed comment 2(g)–3 discusses coverage after a merger or acquisition and provides several illustrative examples. Proposed comment 2(g)–4 provides cross references to commentary that are helpful in determining whether activities with respect to a particular loan constitute an origination. Proposed comments 2(g)–5 and –6 provide guidance on whether branches and offices of foreign banks meet the definition of financial institution.

2(i) Home Improvement Loan

HMDA section 303(2) defines a ''mortgage loan'' as a loan that is secured by residential real property or a home improvement loan. However, HMDA does not expressly define ''home improvement loan.'' Regulation C currently defines ''home improvement loan'' to mean a loan secured by a lien on a dwelling that is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located. The current definition also includes a non-dwelling secured loan that is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located, and that is classified by the financial institution as a home improvement loan. For the reasons discussed below, the Bureau is proposing to exclude loans that are not secured by a lien on a dwelling from the definition of home improvement loan.

During the 2010 Board Hearings, several participants provided feedback that financial institutions encounter substantial compliance challenges when reporting home improvement loans that are not secured by a dwelling.[232] These unsecured loans are often processed, underwritten, and originated through different loan origination systems than are used for secured lending. For financial institutions that focus on portfolio lending, unsecured home improvement loans may be handled by different staff than handle secured lending, which increases the training cost and compliance burden. Thus, the compliance burden associated with unsecured home improvement lending appears to be significant.

The Bureau acknowledges that unsecured home improvement loan data was useful when Regulation C was originally implemented. However, it appears that the current value of unsecured home improvement loan data is limited. For example, in 2012 unsecured home improvement loans comprised only approximately 1.8 percent of all HMDA records.[233] The Bureau is not aware of any instances where a community group relied on unsecured home improvement loan data to determine if a financial institution was serving the housing needs of a neighborhood, such as through discussions related to bank merger or branch expansion requests. In addition, few fair lending cases appear to use unsecured home improvement loan data, and the Bureau is not aware of any research studies or public or private investment programs that relied on unsecured home improvement loan data. Therefore, unsecured home improvement loan data may not provide useful information to the public.

Based on these considerations, the burden associated with reporting unsecured home improvement loan data appears to outweigh the value of the information, and it may be appropriate to exclude unsecured loans from the reporting requirements of Regulation C. Accordingly, the Bureau is proposing to modify § 1003.2(i) to define home improvement loan as a covered loan that is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located. The Bureau solicits feedback regarding whether this proposed exclusion is appropriate. In addition to general feedback, the Bureau specifically requests comment regarding the extent to which members of the public use unsecured home improvement loan data to determine whether financial institutions are fulfilling their obligations to serve community housing needs, whether financial institutions rely on unsecured home improvement loan data for purposes of fair lending examinations, and whether there are any other considerations that the Bureau should analyze in determining whether this proposed exception is appropriate.

Current comment Home improvement loan-1 discusses the classification requirement for loans not secured by a lien on a dwelling. To conform to the proposed exclusion of unsecured home improvement loans, the Bureau is also proposing to remove this comment. The Bureau is proposing to replace the current comment with new comment 2(i)–1, which clarifies that a home improvement loan is defined by reference to the purpose of the obligation, and also explains that an obligation is a home improvement loan even if only a part of the purpose is for repairing, rehabilitating, remodeling, or improving a dwelling. Proposed comment 2(i)–1 also provides several illustrative examples. Proposed comment 2(i)–4 is similar to current comment Home improvement loan-4, but with modifications to conform to the proposed exclusion of unsecured home improvement loans.

Current comment Home improvement loan-5 discusses reporting requirements for home improvement loans. The Bureau believes that the most appropriate location for information related to reporting requirements is in the commentary to the reporting requirements under § 1003.4. Thus, the Bureau is proposing to delete comment Home improvement loan-5.

Section 1003.2(i) is proposed pursuant to the Bureau's authority under section 305(a) of HMDA. Pursuant to section 305(a) of HMDA, the Bureau believes that these proposed modifications and exceptions are necessary and proper to effectuate the purposes of HMDA and to facilitate compliance therewith. The Bureau believes that unsecured home improvement loan data may distort the overall quality of the HMDA dataset. Excluding unsecured home improvement loans from the set of reportable data would improve the quality of the data, which would provide the citizens and public officials of the United States with sufficient information to enable them to determine

[230] *See id.*

[231] *See id.*

[232] *See* Chicago Hearing, *supra* note 137, and Atlanta Hearing, *supra* note 131.

[233] In 2012, out of 18,691,551 total HMDA records, only 340,097 were identified as unsecured home improvement loans.

whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment. The Bureau also believes that this proposed exception would facilitate compliance by removing a significant compliance burden. The Bureau also believes that it is reasonable to interpret HMDA section 303(2) to include only loans that are secured by liens on dwellings, as that interpretation aligns with common definitions of the term mortgage loan and such loans will include home improvement loans.

2(j) Home Purchase Loan

HMDA section 303(2) defines a ''mortgage loan'' as a loan which is secured by residential real property or a home improvement loan. However, HMDA does not expressly define ''home purchase loan.'' Regulation C currently defines ''home purchase loan'' to mean a loan secured by and made for the purpose of purchasing a dwelling. As discussed above, the Bureau is proposing several technical modifications to clarify the regulation and facilitate compliance. To further these goals, the Bureau proposes § 1003.2(j), which modifies the current definition of ''home purchase loan'' to replace ''loan'' with ''covered loan,'' to make conforming edits in several of the comments applicable to proposed § 1003.2(j), and to add illustrative examples to these comments. The Bureau is also proposing to add a new comment 2(j)–1, which discusses the definition of home purchase loan and provides illustrative examples.

As part of the effort to clarify Regulation C, the Bureau is proposing to move, modify, or delete several existing comments. Current comment Home purchase loan-3 discusses loans to purchase property used primarily for agricultural purposes. As discussed in the section-by-section analysis to § 1003.2(b), the Bureau is proposing to move comment Home purchase loan-3 to the commentary under that section. Current comment Home purchase loan-7 discusses reporting requirements for home purchase loans. The Bureau believes that the most appropriate location for information related to reporting requirements is in the commentary to the reporting requirements under § 1003.4. Thus, the Bureau is proposing to delete comment Home purchase loan-7. As discussed in the section-by-section analysis to § 1003.4(a)(3), the Bureau is proposing new comments that are substantively similar to existing comment Home purchase loan-7, but with modifications for clarity and additional illustrative examples. Finally, the Bureau is proposing to add new comment 2(j)–7, which clarifies that, for purposes of § 1003.2(j), an assumption is a home purchase loan when a financial institution enters into a written agreement accepting a new borrower as the obligor on an existing obligation for a covered loan. This proposed comment would further clarify that if an assumption does not involve a written agreement between a new borrower and the financial institution, it is not a home purchase loan for purposes of § 1003.2(j). This proposed comment is substantively similar to current comment 1(c)–9, which the Bureau is proposing to delete, as discussed in the section-by-section analysis to § 1003.1(c). The Bureau solicits feedback regarding these proposed relocations, modifications, and deletions, and solicits feedback regarding whether additional comments or examples would help clarify proposed § 1003.2(j) or facilitate compliance.

2(k) Loan Application Register

Regulation C requires financial institutions to collect and record reportable data in the format prescribed in appendix A of the regulation. This format is referred to as the ''loan application register,'' but that name is not currently defined in the regulation. To improve the readability of the regulation, the Bureau is proposing § 1003.2(k), which defines the term ''loan application register'' to mean a register in the format prescribed in appendix A to this part. The Bureau solicits feedback on this technical modification, and whether additional changes could be made to improve the clarity of the regulation.

2(l) Manufactured Home

Regulation C requires financial institutions to report the property type to which a loan or application relates, including whether the property is a manufactured home as defined in § 1003.2. The Bureau is proposing to make technical corrections and minor wording changes to the definition of manufactured home. Manufactured homes would continue to be defined by referring to the manufactured home construction and safety standards promulgated by HUD. The Bureau is proposing to require financial institutions to report additional information about manufactured home loans and applications, as discussed in the section-by-section analysis of proposed § 1003.4(a)(29) and (30).

The proposal revises comment Manufactured home-1 for clarity and consistency with the HUD standards. It provides that the definition in § 1003.2(l) refers to the Federal building code for manufactured housing established by HUD, and that modular or other factory-built homes that do not meet the HUD code standards are not manufactured homes for purposes of § 1003.2(l). It would provide that recreational vehicles, which are excluded from the HUD code standards pursuant to 24 CFR 3282.8(g), are also excluded from the definition of dwelling for purposes of § 1003.2(f). Proposed new comment 2(l)–2 provides information on identifying manufactured homes with reference to the data plate and certification label required by HUD standards. The Bureau believes this comment will facilitate compliance by providing general guidance on distinguishing manufactured homes from other types of factory-built residential structures. The Bureau solicits feedback on whether additional guidance would provide greater clarity in this area.

2(n) Multifamily Dwelling

Section 1003.4(a)(5) of Regulation C requires financial institutions to report the property type of the dwelling to which a loan or application relates. Property type includes multifamily dwellings pursuant to appendix A. However, the term ''multifamily dwelling'' is not specifically defined in Regulation C. Multifamily residential structures are included within the definition of dwelling as provided by comment 1 to the definition of dwelling. Because multifamily lending is different from single-family lending, appendix A provides that certain data points are reported as not applicable for loans or applications related to multifamily dwellings, including owner-occupancy status and the applicant or borrower's gross annual income. Additionally, the applicant or borrower's ethnicity, race, and sex are reported as not applicable for applications and loans involving applicants that are not natural persons, which include many applicants for loans related to multifamily dwellings. The Bureau is proposing to add a new definition of multifamily dwelling as § 1003.2(n). The proposal would define a multifamily dwelling as a dwelling, regardless of construction method, that contains five or more individual dwelling units. The Bureau believes this definition will facilitate compliance by providing a clear definition for

multifamily dwelling for reporting and exception purposes. The Bureau is proposing to require additional information about multifamily dwellings as discussed in the section-by-section analysis of proposed § 1003.4(a)(31) and (32). The Bureau solicits feedback on whether the proposed definition of a multifamily dwelling is appropriate, and whether any existing or proposed data points should be modified or eliminated for multifamily dwellings.

2(o) Open-End Line of Credit

Currently, neither HMDA nor Regulation C provides a definition for the term ''open-end line of credit.'' Section 1003.4(c)(3) of Regulation C currently provides that a financial institution may report, but is not required to report, home-equity lines of credit made in whole or in part for the purpose of home improvement or home purchase. Regulation C does not currently require reporting for commercial lines of credit secured by a dwelling. For the reasons discussed below, the Bureau is proposing to require mandatory reporting of home-equity line of credit data, and to require reporting of dwelling-secured commercial line of credit data.

The Board's original implementation of Regulation C did not address home-equity lines of credit because depository institutions rarely offered them to consumers.[234] However, home-equity lines of credit gained popularity after several legislative changes in the 1980s.[235] As home-equity lines of credit became increasingly common, the Board adopted several modifications to permit home-equity line of credit reporting in the late 1980s and 1990s.[236] In response to the increasing importance of home-equity lines of credit, in 2000 the Board proposed to require mandatory reporting of all such transactions.[237] However, in 2002 the Board decided to retain optional reporting.[238] While mandatory reporting would have improved the usefulness of the data, the burden seemed to outweigh the benefit.[239]

As the mortgage market continued to evolve, the need for data about the home-equity line of credit market increased. During the mid-2000s home-equity line of credit originations expanded significantly.[240] Research indicates that home-equity lines of credit were often used by speculative real estate investors both before and after the financial crisis.[241] Studies also suggest that home-equity lines of credit were particularly popular in areas where house prices significantly increased prior to the market collapse.[242] Thus, home-equity line of credit data may have helped the public better understand the risks posed to local housing markets. Furthermore, during the housing crisis many public and private mortgage relief programs encountered unique difficulties assisting distressed consumers who had obtained subordinate-lien loans, including home-equity lines of credit.[243] Public officials remain concerned about the potential effect of home-equity lines of credit on the economic recovery because home-equity lines of credit generally permit interest-only payments for ten years after account opening.[244] Thus, although permitting optional reporting of this data was appropriate in the past, it now may be appropriate to require mandatory reporting of data for home-equity lines of credit.

Similar concerns exist for dwelling-secured commercial lines of credit. Many people obtain lines of credit secured by their dwelling with the intention of using the line of credit for business purposes.[245] These dwelling-secured lines of credit are especially important for small businesses,[246] including small businesses started by immigrant entrepreneurs.[247] However, many people who had obtained dwelling-secured lines of credit for business purposes faced foreclosure after the mortgage crisis began.[248] In addition, as the mortgage crisis decreased the availability of traditional business credit, some small business entrepreneurs turned to dwelling-secured credit to maintain business operations.[249] The foreclosures and delinquencies resulting from these lending practices affected many neighborhoods throughout the country, including many low- to moderate-income neighborhoods.[250] Thus,

[234] Prior to the enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980, depository institutions' ability to engage in residential real estate lending was significantly limited. *See* Public Law 96–221, 94 Stat. 132 (Mar. 31, 1980).

[235] The Alternative Mortgage Transaction Parity Act of 1982 preempted State law restrictions on variable-rate mortgage loans, among other things, making it easier for depository institutions to offer HELOCs to consumers. *See* 12 U.S.C. 3801 *et. seq.* The Tax Reform Act of 1986 eliminated interest deductions for most types of credit, but not for credit secured by real estate, thereby making HELOCs more attractive for consumers. *See* Public Law 99–514, 100 Stat. 2085 (Oct. 22, 1986).

[236] In 1988, the Board added an instruction permitting financial institutions to report HELOCs that were home improvement loans. 53 FR 31683, 31685 (Aug. 19, 1988). The Board subsequently clarified that HELOC reporting was optional. 53 FR 52657, 52660 (Dec. 29, 1988). In 1995, the Board extended optional HELOC reporting to home purchase loans. 60 FR 63393, 63398 (Dec. 11, 1995).

[237] 65 FR 78656, 78660 (Dec. 15, 2000).

[238] 67 FR 7222, 7225 (Feb. 15, 2002).

[239] *Id.*

[240] In the fourth quarter of 1999, approximately $20 billion in HELOCs were originated. By the fourth quarter of 2005, approximately $125 billion in HELOCs were originated. *See* Donghoon Lee, Christopher Mayer, and Joseph Tracy, *A New Look at Second Liens,* Fed. Reserve Bank of New York Staff Report No. 569, p. 30 (August 2012).

[241] ''There is evidence indicating HELOC use helped fund speculative purchases of nonowner-occupied investment properties resulting in higher first mortgage defaults and house price depreciation during 2006–2009.'' Michael LaCour-Little, Libo Sun, and Wei Yu, *The Role of Home Equity Lending in the Recent Mortgage Crisis,* Real Estate Economics, p. 182 (Aug. 2013).

[242] ''[B]oth HELOC lending and [closed-end second] lending grew faster in high house price appreciation ZIP codes, but HELOC lending has a much stronger association with house price appreciation than [closed-end second] lending.'' Michael LaCour-Little, Libo Sun, and Wei Yu, *The Role of Home Equity Lending in the Recent Mortgage Crisis,* Real Estate Economics, p. 164 (Aug. 2013).

[243] *See* Vicki Been, Howell Jackson, and Mark Willis, *Essay: Sticky Seconds—The Problems Second Liens Pose to the Resolution of Distressed Mortgages,* Furman Center for Real Estate and Urban Policy, pp. 13–18 (Aug. 2012).

[244] ''Approximately 58 percent of all HELOC balances are due to start amortizing between 2014 and 2017.'' Office of the Comptroller of the Currency, *Semiannual Risk Perspective,* p. 20 (Spring 2012).

[245] ''As one example, Korean Churches for Community Development in Los Angeles reports that 80% of the borrowers it counsels have HELOCs, and that many community members rely on HELOCs to purchase inventory and maintain cash flow.'' California Reinvestment Coalition *et al.* comment letter, Board of Governors of the Fed. Reserve System docket number OP–1388, p. 6, submitted Aug. 4, 2010.

[246] ''Lines of credit (LOC) are the dominant credit instrument used by small businesses and account for more than 52% of the most recent loans in our data set.'' Ken S. Cavalluzzo, Linda C. Cavalluzzo, & John D. Wolken, *Competition, Small Business Financing, and Discrimination: Evidence From a New Survey,* 75 Journal of Business 641, 659 (2002).

[247] A 2012 study commissioned by the Small Business Administration found that home-secured lending was the source of expansion capital for 5 percent of all small businesses, but this lending accounted for 6 percent of expansion capital for immigrant-owned small businesses, and 7.1 percent of expansion capital for small businesses owned by Asian immigrants. *See* Robert W. Fairlie, *Immigrant Entrepreneurs and Small Business Owners, and Their Access to Financial Capital,* p. 23 (May, 2012).

[248] *See e.g.* San Francisco Hearing, *supra* note 133.

[249] ''Asian Pacific Islander (API) small businesses rely heavily on personal real estate for their financing, and the significant decline in residential property values has led to a reduction in credit and rising delinquencies for API small business loans.'' Ben Bernanke (speech), ''Semiannual Monetary Policy Report to the Congress,'' July 21, 2010, *available at http://www.federalreserve.gov/newsevents/testimony/bernanke20100721a.htm.*

[250] ''Our paper graphically illustrates the spillover effects of the mortgage crisis into another vital sector—for the economy as a whole as well as for LMI areas in particular. Our findings suggest that in order to reverse the cycle of disinvestment in neighborhoods hit hard by foreclosures, we need to address the small business sector as well as

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dwelling-secured commercial line of credit data would have helped the public better understand the risks posed to local housing markets, thereby helping enable the public to determine whether financial institutions were filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located.

In addition to improving the usefulness of the HMDA data, the Bureau believes that expanding the scope of Regulation C to include all dwelling-secured lines of credit would be necessary to prevent evasion of HMDA. From the perspective of an individual applicant or borrower, a closed-end mortgage loan and an open-end line of credit are often interchangeable, as people seeking credit need to go through an application process of similar length and complexity. If the reporting requirements applied to closed-end mortgage loans, but not open-end lines of credit, unscrupulous financial institutions could attempt to evade HMDA's requirements by persuading applicants to obtain an open-end line of credit instead of a closed-end mortgage loan.[251] Feedback provided at the 2010 Board Hearings suggested that lenders currently sell lines of credit to applicants seeking mortgage loans, even when an applicant was not initially interested in obtaining an open-end line of credit.[252] Given sales practices such as these and the potential interchangeability of these products, the Bureau believes that there is a serious risk that financial institutions may steer applicants seeking a reportable loan, such as a subordinate lien purchase-money loan or a home improvement loan, into an open-end line of credit to avoid the HMDA and Regulation C reporting requirements. This risk may be even greater should the Bureau determine that the proposed expansion to all closed-end mortgage loans, discussed in the section-by-section analysis to § 1003.2(d) above, is appropriate. Thus, the Bureau believes that some financial institutions would likely attempt to evade the requirements of Regulation C if the reporting requirements were not extended to open-end lines of credit, and that this adjustment is necessary and proper to prevent evasion of HMDA.

For these reasons, the Bureau believes that expanding the reporting requirements of Regulation C to all dwelling-secured, open-end lines of credit would provide valuable information to the public and to public officials. Accordingly, the Bureau is proposing § 1003.2(o), which defines an open-end line of credit as a transaction that: Is an open-end credit plan as defined in § 1026.2(a)(20) of Regulation Z, but without regard to whether the credit is for personal, family, or household purposes, without regard to whether the person to whom credit is extended is a consumer, and without regard to whether the person extending credit is a creditor, as those terms are defined under Regulation Z, 12 CFR part 1026; is secured by a lien on a dwelling, as defined under § 1003.2(f); is not a reverse mortgage under § 1003.2(q); and is not excluded from Regulation C. Proposed comment 2(o)–1 discusses the definition of open-end line of credit and provides several illustrative examples. This proposed comment also clarifies that financial institutions may rely on § 1026.2(a)(20) and the related commentary in determining whether a transaction is open-end credit under § 1003.2(o)(1). This Bureau solicits feedback regarding whether this proposed modification is appropriate, and whether this proposed modification would provide useful data to the public and otherwise serve the purposes of HMDA. The Bureau also solicits feedback regarding the costs, burdens, and compliance challenges that would be associated with expanding the transactional coverage of the regulation to include home-equity lines of credit and dwelling-secured commercial lines of credit. Importantly, the Bureau requests that commenters differentiate between home-equity lines of credit and dwelling-secured commercial lines of credit when providing feedback, as precise feedback about these different products would assist in the Bureau's efforts to develop an effective and appropriately tailored final rule.

As part of the Bureau's efforts to reduce regulatory burden by aligning to existing industry or regulatory standards, it may be appropriate to define open-end line of credit by reference to the existing definition of open-end credit plan under Regulation Z, with modifications to conform to the differences in scope between Regulations C and Z, because the Bureau believes that definition is clear and is understood by industry. However, the Bureau solicits feedback regarding whether this proposed definition is appropriate and whether there are other clarifications that would facilitate compliance. Finally, as discussed in the section-by-section analysis to proposed § 1003.4(c)(3) below, the Bureau is also proposing modifications to § 1003.4(c)(3) to conform to the proposed modifications in this section.

During the Small Business Review Panel process, several small entity representatives expressed concerns about requiring mandatory reporting of home-equity lines of credit,[253] and about requiring reporting of dwelling-secured commercial credit.[254] The Small Business Review Panel recommended that the Bureau solicit public comment on whether any types of dwelling-secured loans should be excluded from Regulation C's data collection and reporting requirements and, if so, which types of loans should be excluded.[255] Based on this feedback and consistent with the Small Business Review Panel's recommendation, the Bureau solicits feedback regarding whether any types of dwelling-secured loans or lines of credit should be excluded from the requirements of the regulation, and which types of loans or lines of credit should be excluded.

Proposed § 1003.2(o) is issued pursuant to the Bureau's authority under section 305(a) of HMDA. For the reasons given above, the Bureau believes that including dwelling-secured lines of credit within the scope of the regulation is a reasonable interpretation of HMDA section 303(2), which defines ''mortgage loan'' to mean a loan which is secured by residential real property or a home improvement loan. The Bureau interprets that term to include dwelling-secured lines of credit, as those transactions are secured by residential real property, and they may be used for home improvement. As discussed above, information on home-equity lines of credit and dwelling-secured commercial lines of credit would have helped the public understand the risks posed to communities prior to the mortgage crisis. In addition, information on these

housing.'' Elizabeth Laderman & Carolina Reid, *The Community Reinvestment Act and Small Business Lending in Low- and Moderate-Income Neighborhoods during the Financial Crisis,* Fed. Reserve Bank of San Francisco Working Paper 2010–05, p. 9 (Oct. 2005).

[251] Concerns over potential evasion were raised during the 2010 Board Hearings. *See* Washington Hearing, *supra* note 130.

[252] *See* Washington Hearing, *supra* note 130 (Remarks of Lisa Rice, Vice President, National Fair Housing Alliance) (''When I purchased my home I wasn't even thinking about getting a HELOC and my mortgage originator—I purchased a home with a loan from a depository institution, retail, and the loan officer said to me, you need to get a HELOC and gave me all of these reasons why. And so I was sold my mortgage and my HELOC at the same time by the same originator. Every institution doesn't do it the same way. I didn't ask for it. It was something that the lending institution sold to me, and she did a very, very good job of selling it to me.'').

[253] *See* Small Business Review Panel Report at 24, 38, 56, 57, 61, 91, 95, 96, 100, and 132.

[254] *See id* at 24, 37, 59, 78, and 85.

[255] *See id.* at 38.

types of transactions would have been helpful for public officials developing programs intended to mitigate the effects of delinquency, default, and foreclosure in many areas throughout the country. Thus, this information will enable the people and public officials of the United States to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

In addition, pursuant to section 305(a) of HMDA, the Bureau believes that this proposed requirement is necessary and proper to effectuate the purposes of HMDA and to prevent circumvention or evasion thereof. For the reasons given above, by requiring all financial institutions to report information regarding home-equity lines of credit and dwelling-secured commercial lines of credit, this proposed modification would ensure that the citizens and public officials of the United States are provided with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. In addition, this proposed modification would assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment. Furthermore, as home-equity lines of credit and dwelling-secured commercial lines of credit are a common method of obtaining credit, this proposed modification would assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

2(p) Refinancing

HMDA does not expressly define ''refinancing.'' Regulation C currently defines ''refinancing'' to mean a new obligation that satisfies and replaces an existing obligation by the same borrower, subject to two qualifications. In the first qualification, for coverage purposes, the existing obligation is a home purchase loan (as determined by the lender, for example, by reference to available documents; or as stated by the applicant), and both the existing obligation and the new obligation are secured by first liens on dwellings. In the second qualification, for reporting purposes, both the existing obligation and the new obligation are secured by liens on dwellings. For the reasons discussed below, the Bureau is proposing several modifications to clarify and simplify this definition.

The Bureau has received feedback indicating that the current definition of refinancing should be clarified or modified to reduce burden and facilitate compliance. Comments received in response to the 2011 Regulation C Restatement argued that the definition of refinancing in Regulation C should be aligned with the definition in Regulation Z to streamline the regulatory requirements and reduce compliance burden. Other feedback suggests that the current two pronged definition of refinancing—one prong for institutional coverage and one prong for reporting—is also a source of confusion. While the FFIEC published several frequently asked questions to address some of these issues, it appears that some confusion remains.

The Bureau believes that these issues would be best addressed by simplifying the definition and adding clarifying commentary. While financial institutions may often refer to the regulation to determine whether a reportable transaction is considered a refinancing, the Bureau does not believe that financial institutions often reevaluate institutional coverage. When an entity needs to evaluate institutional coverage, it currently needs to refer to the definition of refinancing and financial institution. The Bureau believes that moving the coverage prong to the definition of financial institution would simplify the regulation by placing the information needed to determine institutional coverage in one location. Thus, the Bureau is proposing § 1003.2(p), which defines a refinancing to mean a covered loan in which a new debt obligation satisfies and replaces an existing debt obligation by the same borrower, in which both the existing debt obligation and the new debt obligation are secured by liens on dwellings. The Bureau solicits feedback regarding whether these proposed modifications are appropriate, and whether additional clarification is necessary.

Proposed comment 2(p)–1 discusses the definition in § 1003.2(p) and provides illustrative examples of the definition. This proposed comment also clarifies that, if a borrower enters into a new debt obligation that modifies that terms of the existing debt obligation, but does not satisfy and replace the existing debt obligation, the new debt obligation is not a refinancing for purposes of § 1003.2(p). Proposed comment 2(p)–2 explains that, for purposes of determining whether the transaction is a refinancing under § 1003.2(p), both the new debt obligation and the existing debt obligation must be secured by liens on dwellings, and provides several illustrative examples. Proposed comment 2(p)–3 clarifies that the existing and new obligation must both be by the same borrower. This proposed comment provides examples of common scenarios that illustrate this proposed definition.

2(q) Reverse Mortgage

Currently, neither HMDA nor Regulation C expressly addresses reverse mortgages. However, reverse mortgages that are home purchase loans, home improvement loans, or refinancings under the current definitions in § 1003.2 are subject to the data collection and reporting requirements of Regulation C.

Reverse mortgages became increasingly popular in the past decade, and many expect these products to become more popular in the coming years.[256] While reverse mortgages may provide important benefits to homeowners, several concerns exist about the reverse mortgage market.[257] For example, in recent years a substantial number of homeowners with reverse mortgages have defaulted.[258] As discussed in part II.A above, many communities are struggling with the effects of foreclosure and default, which often contribute to a downward spiral in neighborhood property values.[259] These struggles may be especially acute in communities with sizeable populations of homeowners eligible for reverse mortgage programs,[260] and many State officials are focusing on harmful practices associated with reverse mortgage lending.[261] Thus, information

[256] *See* Lisa Prevost, *Retiring on the House: Reverse Mortgages for Baby Boomers,* N.Y. Times, Feb. 13, 2014, at RE5, *available at http://www.nytimes.com/2014/02/16/realestate/reverse-mortgages-for-baby-boomers.html?_r=0.*

[257] See Consumer Fin. Prot. Bureau, Report to Congress on Reverse Mortgages 110–145 (June 28, 2012), *available at http://files.consumerfinance.gov/a/assets/documents/201206_cfpb_Reverse_Mortgage_Report.pdf.*

[258] In July 2011, 8.1 percent of active Home Equity Conversion Mortgage loans were in default. By February 2012, the proportion in default had increased to 9.4 percent. *See* HUD Presentation, Nat'l Reverse Mortgage Lenders Ass'n Eastern Regional Meeting (Mar. 26, 2012).

[259] *See supra* note 83.

[260] *See* Susan Taylor Martin, *Complexities of Reverse Mortgages Snag Homeowners,* Tampa Bay Times, May 30, 2014; Kevin Burbach & Sharon Schmickle, *As State Ages, Minnesota Braces for Problems With Risky Reverse-Mortgages,* MinnPost (April 5, 2013), *http://www.minnpost.com/business/2013/04/state-ages-minnesota-braces-problems-risky-reverse-mortgages.*

[261] *See e.g.,* Press Release, Illinois Attorney General, *Madigan Sues Two Reverse Mortgage Brokers For Using Deceptive Marketing to Target*

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on all reverse mortgages, regardless of purpose, would help communities understand the risks posed to local housing markets, thereby providing the citizens and public officials of the United States with sufficient information to enable them to determine whether financial institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. Furthermore, private institutions and nonprofit organizations, as well as local, State, and Federal programs, traditionally have facilitated or engaged in reverse mortgage lending. However, the proprietary market for reverse mortgages has substantially declined in recent years. Thus, requiring improved information regarding all reverse mortgages would assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment. In addition, State officials provided feedback during the 2010 Board Hearings that expanding the transactional coverage of Regulation C to include all reverse mortgages would assist in the identification of discriminatory and other potentially harmful practices.[262] Thus, improved reverse mortgage data would assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

Furthermore, the Bureau believes that the current applicability of Regulation C to reverse mortgages is a source of confusion and presents a compliance burden. For example, financial institutions are required to report information on a reverse mortgage that is a home purchase loan, home improvement loan, or a refinancing, but if the reverse mortgage is also a home-equity line of credit, the financial institution may report the information, but is not required to do so. In addition, the Bureau has received feedback that overlapping or inapplicable provisions in the current regulation contribute to this confusion. For example, a financial institution is required to report rate-spread information under § 1003.4(a)(12)(i) for a reverse mortgage that is a home purchase loan or a refinancing, but is not required to report this information for a reverse mortgage that also meets the definition of home-equity line of credit under § 1003.2, because home-equity lines of credit are exempt from the sections of Regulation Z related to the rate-spread calculation. Similarly, financial institutions are not required to report HOEPA status under § 1003.4(a)(13) for reverse mortgages, because reverse mortgages are exempt from HOEPA. While the FFIEC has published FAQs to address much of this confusion, simplifying the applicability of Regulation C to reverse mortgages would further facilitate compliance.

The Bureau believes that all of the concerns discussed above would be addressed by expanding the scope of reportable transactions to include all reverse mortgages, regardless of purpose, and by adding a new definition for reverse mortgages in § 1003.2. As part of the Bureau's efforts to reduce regulatory burden by aligning to existing industry or regulatory standards, it may be appropriate to define reverse mortgages by reference to the existing Regulation Z definition because the Bureau believes that definition is clear and is understood by industry. Accordingly, the Bureau is proposing § 1003.2(q), which would define reverse mortgage as a transaction that is a reverse mortgage transaction as defined in § 1026.33(a) of Regulation Z and that is not excluded from Regulation C pursuant to § 1003.3(c). The Bureau solicits feedback regarding whether this proposed definition is appropriate. Although the Bureau is not proposing commentary to this proposed definition, the Bureau solicits feedback regarding whether illustrative examples would help clarify the proposed definition or facilitate compliance.

Proposed § 1003.2(q) is issued pursuant to the Bureau's authority under section 305(a) of HMDA. For the reasons given above, the Bureau believes that including reverse mortgages within the scope of the regulation is a reasonable interpretation of HMDA section 303(2), which defines ''mortgage loan'' to mean a loan which is secured by residential real property or a home improvement loan. The Bureau interprets that term to include reverse mortgages, as those transactions are secured by residential real property, and they may be used for home improvement. In addition, pursuant to its authority under section 305(a) of HMDA, the Bureau believes that this proposed adjustment is necessary and proper to effectuate the purposes of HMDA, to prevent circumvention or evasion thereof, and to facilitate compliance therewith. For the reasons given above, by requiring all financial institutions to report information regarding reverse mortgages, this proposed modification would ensure that the citizens and public officials of the United States are provided with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. Furthermore, as reverse mortgages are a common method of obtaining credit, this proposed modification would assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

Section 1003.3 Exempt Institutions and Excluded Transactions

As part of the efforts to streamline and reduce burden, the Bureau proposes some limited reorganization of and modifications to Regulation C. As discussed below, the Bureau proposes to move and consolidate all excluded transactions into proposed § 1003.3(c). The Bureau proposes to modify the heading of § 1003.3 to reflect the addition of excluded transactions listed below.

3(c) Excluded Transactions

Regulation C currently excludes certain transactions from the requirements to collect and report data under HMDA. These exclusions are found in the regulation, appendix A, and commentary. Specifically, § 1003.4(d) lists six types of transactions that are excluded from reporting requirements, including loans the financial institution originated or purchased when acting in a fiduciary capacity, such as a trustee; loans on unimproved land; temporary financing; the purchase of an interest in a pool of loans; the purchase solely of the right to service loans; and loans acquired as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch office. In addition, section I.A.7 of appendix A instructs financial institutions not to report loans with a loan amount less than $500. Comment 1(c)–8 explains that an institution that purchases a partial interest in a loan does not report the transaction. Finally, comment Home purchase loan-3 explains that a loan to purchase property used primarily for

Seniors (Feb. 8, 2010), *http://www.illinoisattorneygeneral.gov/pressroom/2010_02/20100208.html*; Press Release, Washington State Office of the Attorney General, *Ferguson Files Complaint Against Bellevue Insurance Agent and His Company for Targeting Elderly Widows* (July 29, 2013), *http://www.atg.wa.gov/pressrelease.aspx?id=31312*.

[262] ''[R]everse mortgages constitute a product geared toward a specific protected class, the elderly. Thus, reporting them, (assuming an institution chooses to report them at all), as refinance or HELOC loans may mask discriminatory or abusive practices that are occurring to harm the elderly.'' New York State Banking Department comment letter, Board of Governors of the Fed. Reserve System docket no. OP–1388, p. 5, submitted Aug. 6, 2010. *See also* San Francisco Hearing, *supra* note 133 (Remarks of Preston DuFauchard, Commissioner of the California Department of Corporations).

agricultural purposes is not considered a home purchase loan.

The Bureau proposes to consolidate the list of the excluded transactions in § 1003.3(c). Commentary to the existing provisions would also be consolidated under § 1003.3(c). In addition to consolidating exclusions in one section, the Bureau also proposes additional guidance about the exclusions of loans secured by a lien on unimproved land and of temporary financing.

Loans Secured by a Lien on Unimproved Land

Industry stakeholders have expressed confusion over the exclusion of a loan secured by a lien on unimproved land. The Bureau proposes new comment 3(c)(2)–1 to clarify whether a loan is secured by a lien on unimproved land. The proposed comment clarifies that a loan that is secured by vacant land under Regulation X § 1024.5(b)(4) is also considered a loan secured by a lien on unimproved land under Regulation C. The proposed comment explains that a loan is not secured by a lien on unimproved land if the financial institution knows or reasonably believes that within two years after the loan closes, a dwelling will be constructed or placed on the land using the loan proceeds. The Bureau solicits feedback on whether this comment is appropriate generally.

Temporary Financing

Industry stakeholders have requested additional guidance about the meaning of temporary financing that is excluded from HMDA data. The Bureau proposes new comments 3(c)(3)–1 and –2 to clarify the meaning of temporary financing. Proposed comment 3(c)(3)–1 provides that a loan that is considered temporary financing under Regulation X § 1024.5(b)(3) is also considered temporary financing under Regulation C. Proposed comment 3(c)(3)–1 explains that temporary financing refers to loans that are designed to be replaced by permanent financing at a later time. For example, a bridge loan or swing loan is considered temporary financing. A construction loan with a term of two years or more to construct a new dwelling, other than a loan to a bona fide builder (a person who regularly constructs dwellings for sale or lease), is not considered temporary financing.

Questions have also been raised about permanent financing of construction activities. Proposed comment 3(c)(3)–2 explains that a loan that is designed to be converted to permanent financing by the same financial institution or a loan that is used to finance transfer of title to the first user is not temporary financing. Proposed comment 3(c)(3)–2 clarifies that if an institution issues a commitment for permanent financing, with or without conditions, the loan is not considered temporary financing. The Bureau solicits feedback on whether this commentary is appropriate generally.

As part of the reorganization discussed above, the Bureau is also proposing to move comment 4(d)–1 to proposed comment 3(c)(6)–1, comment 1(c)–8 to proposed comment 3(c)(8)–1, and comment Home purchase loan-3 to comment 3(c)(9)–1. The Bureau is also proposing nonsubstantive modifications to the comments. The Bureau is also proposing new comment 3(c)(1)–1 to provide examples of what is meant by a financial institution acting in a fiduciary capacity and new comment 3(c)(4)–1 to provide examples of what is meant by the purchase of an interest in a pool of loans. The examples in proposed comments 3(c)(1)–1 and 3(c)(4)–1 are currently included in § 1003.4(d)(1) and (4), respectively. The Bureau solicits feedback on whether the proposed reorganization and modifications are appropriate generally.

Section 1003.4 Compilation of Reportable Data

4(a) Data Format and Itemization

Section 1003.4(a) requires financial institutions to collect and record specific information about covered loans, applications for covered loans, and purchases of covered loans. As discussed in detail below, the Bureau proposes several changes to § 1003.4(a) to implement the Dodd-Frank Act amendments to HMDA. In addition, the Bureau proposes modifications to Regulation C to reduce redundancy, provide greater clarity, and make the data more useful.

The proposed expanded HMDA data would provide more fulsome information about underwriting, pricing, loan features, and the property securing each reported loan and application. The additional information would enable the public and public officials to better evaluate whether financial institutions are serving the housing needs of their communities and better identify neighborhoods that could benefit from public or private sector investment. More detail might also shed light on the demand for certain types of loans in certain areas, and whether that demand is being met. In addition, the expanded data would assist in identifying possible discriminatory lending patterns and facilitate fair lending analysis. It may also assist the public and public officials in identifying problematic trends in the mortgage market. The proposal also would make technical improvements that would facilitate reporting by better aligning the information collected pursuant to HMDA with financial institutions' business practices and with other regulatory requirements. The Bureau solicits feedback on whether the proposed additions to HMDA data are appropriate. The Bureau also seeks comment on whether including additional or different information in the HMDA data, such as an indication of whether the loan is subject to mortgage insurance, would better effectuate HMDA's purposes.

As discussed in part II.B above, the Bureau is proposing alignment of the HMDA data requirements, to the extent practicable, with MISMO/ULDD data standards. During the Small Business Review Panel process, the small entity representatives' feedback on adopting an industry data standard depended on whether the small entity representative sells loans in the secondary market, or whether their Loan Origination System vendor's system is aligned with industry data standards.[263] For example, the small entity representatives whose financial institutions participate in the secondary market or have more automated processes generally stated that the adoption of a data standard would help keep costs low and allow for more efficient collection of data.[264] On the other hand, other small entity representatives were not familiar with MISMO and expressed concern that the adoption of a new data standard would require additional employee training and other process adjustments to come into compliance, resulting in increased costs.[265] A few small entity representatives indicated that they would continue to collect and maintain the data manually and would realize few benefits of the proposed data standard.[266] In addition, some small entity representatives expressed concerns regarding implementation of the data standard.[267] For example, a few small entity representatives expressed concern that there would be challenges in adapting MISMO to business and commercial loans, and potential penalties for errors.[268] One small entity representative recommended making adoption of MISMO optional.[269] The Small Business Review Panel

[263] *See* Small Business Review Panel Report at 42.

[264] *Id.* at 33 and 42.

[265] *Id.*

[266] *Id.* at 33.

[267] *Id.*

[268] *Id.* at 33 and 42.

[269] *Id.*

recommended that the Bureau seek comment in the proposed rule from small financial institutions about whether they, or their vendors, use MISMO-compliant data definitions and standards, and the potential effect on small financial institutions of alignment of the HMDA data requirements with MISMO data standards.[270] Consistent with the Small Business Review Panel's recommendations, the Bureau solicits feedback on these issues.

As discussed above in Part II.C, in considering proposed changes to data required to be collected under § 1003.4(a), the Bureau assessed the potential impacts of the proposals on the privacy interests of applicants and borrowers.[271] The Bureau has considered applicant and borrower privacy in developing its proposals to implement the Dodd-Frank amendments and the additional data points and modifications to existing data points proposed. The Bureau's proposals are intended to ensure that data compiled and reported by financial institutions fulfill HMDA's purposes while appropriately protecting applicant and borrower privacy.

The Bureau proposes modifications to § 1003.4(a), comment 4(a)–1, and new commentary to clarify the reporting requirements. In particular, as discussed below, the proposed modifications address a financial institution's responsibilities when reporting a single transaction involving more than one institution and reporting repurchased loans. In addition, the proposed modifications reflect substantive changes concerning reporting requests for preapproval discussed below in the section-by-section analysis of proposed § 1003.4(c)(2). As discussed in the section-by-section analysis to each proposed data point below, the Bureau is also proposing to modify and reorganize the current instructions in part I of appendix A to provide new technical instructions for each data point to facilitate compliance.

Reporting Transactions Involving More Than One Institution

Currently, commentary to § 1003.1(c) describes the ''broker rule,'' which explains a financial institution's reporting responsibilities when a single transaction involves more than one institution. Industry representatives have expressed confusion about this commentary and urged the Bureau to clarify the reporting responsibilities when more than one institution is involved in a transaction. To address these concerns, the Bureau proposes amendments to § 1003.4(a) and its commentary. In particular, the proposed amendments clarify that only one financial institution should report each transaction as an origination or application. The proposed amendments clarify that the financial institution that makes the credit decision prior to closing, or prior to when the loan would have closed if the application does not result in an origination, reports the transaction as an origination or application, respectively.

Accordingly, the Bureau proposes to modify § 1003.4(a) to specify that a financial institution shall collect data regarding originations of covered loans on which it makes a credit decision. In addition, the Bureau proposes new comments 4(a)–4 and –5 to provide further clarification about the reporting responsibilities when more than one institution is involved in a transaction. The proposed amendments modify and consolidate current comments 1(c)–2 through 7, 4(a)(1)–iii, and 4(a)(1)–iv. Proposed comment 4(a)–4 explains that each origination and application is only reported by one financial institution as an origination or application. If more than one institution was involved in an origination of or application for a covered loan, the financial institution that made the credit decision before the loan closed or would have closed reports the origination. In the case of an application for a covered loan that did not result in an origination, the financial institution that made the credit decision or that was reviewing the application when the application was withdrawn or closed for incompleteness reports the application. In certain circumstances, one financial institution would report the transaction as an origination and another financial institution would report the transaction as a purchase. Whether the loan closed or would have closed in the institution's name is not relevant for HMDA reporting. Proposed comment 4(a)–4 provides several illustrative examples. Proposed comment 4(a)–5 discusses reporting responsibilities when a financial institution makes a credit decision through the actions of an agent and provides an illustrative example. The Bureau solicits feedback on whether the proposed amendments to § 1003.4(a) and associated commentary are appropriate generally.

Repurchased Loans

The proposal would add new comments 4(a)(8)–4 and 4(a)–6 to provide guidance on reporting repurchased loans. The Bureau understands that there has been confusion about whether the repurchase of a loan that a financial institution originally sold to another financial institution or secondary market entity, such as when the investor requires the financial institution to buy back the loan because it does not meet certain conditions, is reportable under Regulation C. An FFIEC publication in 2010 noted that repurchases qualify as purchases for Regulation C, and provided guidance on how and when to report such purchases.[272] Proposed comments 4(a)(8)–4 and 4(a)–6 would provide that when a covered loan that a financial institution initially originated and sold to another financial institution or secondary market entity is repurchased by the originating financial institution within the same calendar year as it was originated, the originating financial institution should not report it as sold, and the purchasing financial institution should not report it as purchased. It would also provide that if the repurchase happens in a subsequent calendar year, the purchase and repurchase should be reported in their respective calendar years. It would also provide additional guidance for financial institutions who would be required to report on a quarterly basis under proposed § 1003.5(a)(1)(ii). It would also provide several illustrative examples. The Bureau solicits feedback generally on how repurchases should be treated for purposes of Regulation C. Specifically, the Bureau solicits feedback on whether repurchases should be reported under Regulation C, and how they should be handled for financial institutions required to report on a quarterly basis.

4(a)(1)(i)

As amended by section 1094(3)(A)(iv) of the Dodd-Frank Act, HMDA section 304(b)(6)(G) authorizes the Bureau to require a universal loan identifier, as it may determine to be appropriate.[273] Existing § 1003.4(a)(1) requires financial institutions to report an identifying number for each loan or loan application reported. Pursuant to existing comment 4(a)(1)–4, the number must be unique within the institution, and financial institutions are strongly encouraged not to use the applicant's or borrower's name or Social Security number. According to the instructions in appendix A, the loan identifier can be any alphanumeric combination of the

[270] *Id.* at 43.

[271] Also see part II.C. above for a discussion of the Bureau's approach to protecting applicant and borrower privacy in HMDA data made available to the public while fulfilling the public disclosure purposes of the statute.

[272] FFIEC, *CRA/HMDA Reporter* 5 (Dec. 2010), *http://www.ffiec.gov/hmda/pdf/10news.pdf.*

[273] 12 U.S.C. 2803(b)(6)(G).

institution's choosing, up to 25 characters. The Bureau proposes to replace Regulation C's existing loan identifier with a new self-assigned loan or application identifier that would be unique within the industry, would be used by all financial institutions that report on the loan or application for HMDA purposes, and could not be used to directly identify the applicant or borrower. Although the term ''universal'' can be interpreted in many ways, the Bureau believes that this identifier would be a ''universal loan identifier'' within the meaning of HMDA section 304(b)(6) because it would be unique within the industry and would be used throughout the life of the loan.

The flexibility of § 1003.4(a)(1)'s current identifier requirement has raised concerns. To the extent that financial institutions include Social Security numbers or other personal identifiers in their loan identifiers, they may be unnecessarily revealing sensitive applicant or borrower information. Although the commentary instructs financial institutions to select ''unique'' identifiers, it does not provide guidance on how this should be done. Some financial institutions may, for example, be recycling identifiers from year to year.

Because § 1003.4(a)(1) allows financial institutions that purchase previously reported loans to assign a new identifier to the loan, data users cannot link HMDA data that different financial institutions report for the same loan. Different identifiers may be assigned to the same mortgage loan by the financial institution that initially reports it at origination and a financial institution that subsequently reports it as a purchased loan. Even a single financial institution may assign different identifiers to the same loan for different purposes, such as for origination, sale of the loan, and reporting HMDA data. At present, there is no system or process to synchronize those identifiers with respect to each loan. This makes it difficult to track an application or loan over its life and to accurately identify lending patterns.

In developing this proposal, the Bureau has consulted with a variety of stakeholders that have been considering these issues and the need for a more robust mortgage loan identifier.[274] In September 2012, MISMO created a Unique Loan Identification Data Working Group, which released a 2013 white paper that discusses possibilities for a unique loan identifier.[275] The group considered a number of options, including using an existing loan identification number, developing a new identifier from loan information such as lien priority and loan type, and attempting to standardize the syntax and format of loan identifiers.[276]

In December 2013, the U.S. Department of the Treasury's Office of Financial Research (OFR) released a working paper discussing the need for a universal mortgage identifier.[277] OFR strongly supports the establishment of a single, cradle-to-grave, universal mortgage identifier that cannot be linked to individuals using publicly available data.[278] OFR's working paper explains that such an identifier would allow for better integration of the fragmented data produced by the U.S. mortgage finance system, resulting in significant benefits to regulators and researchers.[279] OFR recognizes that there are significant challenges to designing a universal identifier, including privacy concerns and questions about the timing of assignment, the structure and governance of any entities issuing identifiers or coordinating them, what parties should have access to the identifier, the documents that should or could carry the identifier, how to ensure use of the identifier throughout the mortgage life cycle, how to ensure identifier integrity, and how to develop mechanisms to link simultaneous or sequential liens.[280]

The Bureau is encouraged by the progress that is being made in this complex area and will continue to work with industry and other agencies and stakeholders to assess how the HMDA loan identifier relates to broader mortgage identification needs. Many of the mortgage identification options considered by MISMO and OFR would require significant investment of time and money and substantial coordination among all relevant stakeholders to develop. Although the Bureau is not proposing or seeking comment on a mortgage registry or vault at this time, the Bureau will continue to collaborate with industry groups and other government offices that are considering these possibilities, which could potentially serve a range of purposes.

To address the need for a unique loan identifier that can be used for HMDA reporting throughout the life of the loan, the Bureau proposes to strengthen Regulation C's self-assigned loan identifier by substituting proposed § 1003.4(a)(1)(i) for the identification requirement in existing § 1003.4(a)(1).[281] Proposed § 1003.4(a)(1)(i) requires entities to provide a universal loan identifier (ULI) for each covered loan or application that can be used to retrieve the covered loan or application file. For covered loans or applications for which any financial institution has previously reported a ULI under this part, proposed § 1003.4(a)(1)(i) provides that the ULI shall consist of the ULI that was previously reported. For all other covered loans and applications, proposed § 1003.4(a)(1)(i)(A) provides that the ULI shall begin with the financial institution's Legal Entity Identifier described in § 1003.5(a)(3). Proposed § 1003.4(a)(1)(i)(B) provides that the ULI shall follow that Legal Entity Identifier with up to 25 additional characters to identify the covered loan or application, which (1) may be letters, numerals, symbols, or a combination of any of these; (2) must be unique within the financial institution; and (3) must not include any information that could be used to directly identify the applicant or borrower.

Two proposed comments to § 1003.4(a)(1)(i) would replace existing comment 4(a)(1)–4. Proposed comment 4(a)(1)(i)–1 explains the uniqueness requirement in proposed § 1003.4(a)(1)(i)(B). Only one ULI should be assigned to any particular application or covered loan, and each ULI should correspond to a single application and, if the application is approved and a loan is originated, the ensuing loan. A financial institution shall use a ULI that was reported previously to refer only to the same loan or application for which the ULI was used previously or to a loan that ensues from an application for which the ULI

[274] A paper by Linda F. Powell and John A. Bottega discussing the Legal Entity Identifier describes a framework for the attributes of a robust identifier that may also be useful in discussing loan identifiers; the attributes that they identified include uniqueness, extensibility, reliability, coverage, persistence, and neutrality. John A. Bottega & Linda F. Powell, *Creating a Linchpin for Financial Data: Toward a Universal Legal Entity Identifier* (2011), *http://www.federalreserve.gov/pubs/feds/2011/201107/201107pap.pdf.*

[275] MISMO, *Unique Loan Identifier Development Workgroup White Paper* (2013), *http://www.mismo.org/files/BrochuresandPresentations/DWGUniqueLoanIDWhitePaper2.pdf.*

[276] *Id.* at 5.

[277] Matthew McCormick & Lynn Calahan, U.S. Dep't of Treas. Office of Fin. Research, *Common Ground: The Need for a Universal Mortgage Loan Identifier* (Dec. 5, 2013), *http://www.treasury.gov/initiatives/ofr/research/Documents/OFRwp0012_McCormickCalahan_CommonGroundNeedforUniversalMortgageIdentifier.pdf.*

[278] *Id.* at 14–15.

[279] *Id.* at 2–11.

[280] *Id.*

[281] Under the Bureau's proposal, new § 1003.4(a)(1)(i) would address the universal loan identifier, while new § 1003.4(a)(1)(ii) would address the date of application, which is discussed below.

was used previously. For example, if a loan origination was previously reported for HMDA purposes with a ULI, a financial institution would report the later purchase of the loan using the same ULI. A financial institution may not, however, report an application for a covered loan in 2030 using a ULI that was reported for a covered loan that was originated in 2020. Similarly, refinancings or applications for refinancing should be assigned a different ULI than the loan that is being refinanced. A financial institution with multiple branches must ensure that its branches do not use a single ULI to refer to multiple covered loans or applications.

Proposed comment 4(a)(1)(i)–2 explains that information that could be used to directly identify the applicant or borrower includes but is not limited to the applicant's or borrower's name, date of birth, Social Security number, official government-issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number. Pursuant to proposed § 1003.4(a)(1)(i)(B)(3), a financial institution may not include information of this nature in the identifier that it assigns for a covered loan or application.

The Bureau believes that these changes would strengthen the existing identifier in three significant ways. First, by providing additional instructions relating to uniqueness and combining the financial institution's loan-specific identifier with its Legal Entity Identifier, the proposed rule would ensure that the resulting ULI is unique in the entire universe of HMDA loans and applications. Second, by requiring financial institutions that purchase loans to report the ULI that was previously reported, the proposed rule would allow the Bureau and other regulators to track HMDA reporting that is done over time by different financial institutions for a single loan, furthering all of HMDA's purposes. Third, to protect the privacy of borrowers and applicants, the proposal replaces the commentary that discourages using Social Security numbers and names in identifiers with regulation text that prohibits using information that could be used to directly identify the borrower or applicant. This is consistent with the recommendations of the Small Business Review Panel, which specifically urged the Bureau to consider and seek comment on prohibiting the use of information that could be used to directly identify an applicant or borrower as any component of a loan identifier.[282] Because the identifier is self-assigned, the Bureau believes that the burden associated with these changes would be fairly minimal.

The Bureau solicits feedback on whether the proposed changes to the loan or application identifier used for HMDA reporting purposes are appropriate, as well as feedback on other possible approaches to identifying loans and applications in HMDA reporting. This solicitation of feedback is consistent with the Small Business Review Panel's recommendation that the Bureau seek comment on each of the unique identifiers under consideration that were included in the Dodd-Frank Act.[283] Consistent with the Small Business Review Panel's recommendations, the Bureau specifically solicits comments on whether the privacy limitations provided in § 1003.4(a)(1)(i)(B) and explained in proposed comment 4(a)(1)(i)–2 are sufficient to protect applicant and borrower privacy, and whether the identifier should be required for all entries on the loan application register (as under existing § 1003.4(a)(1) and as proposed here) or only for loan originations and purchases.[284] The Bureau also seeks comment on whether 25 characters is the appropriate maximum number of characters for financial institutions to use in identifying the covered loan or application.

One alternative that the Bureau is considering is requiring financial institutions to use a secure hash algorithm to encrypt their ULIs prior to submission to the Bureau or the appropriate Federal agency. A hash function is any algorithm that maps data of arbitrary length to data of a fixed length. A secure hash algorithm is designed to provide a measure of encryption by being non-invertible (meaning that the original value cannot be derived from the hash) and to resist ''collisions'' (meaning that two different values will not hash to the same result). The Bureau could, for example, require use of Secure Hash Algorithm (SHA) 3–224 as specified by the National Institute of Standards and Technology (NIST) in Federal Information Processing Standard 202 [285] or another hash algorithm specified by the NIST, such as SHA–224. Each of these algorithms is a one-way hash function that can process a message (in this case, the institution's Legal Entity Identifier merged with an identifier for the loan or application) to produce a representation called a message digest. Requiring financial institutions to report the resulting message digest could ensure that the identifier produced is a consistent length and could also mask any residual information about the loan or borrower that might be embedded in the underlying identifier.

If the Bureau were to require hashing, it could provide tools that financial institutions could use to do the hashing, as well as details that financial institutions or their service providers could use should they wish to integrate the hash algorithm into their own systems. The Bureau invites comment on whether the Bureau should require financial institutions to apply a secure hash algorithm to their Legal Entity Identifier plus the identifier for the loan or application and then report the resulting message digest as the ULI, in lieu of reporting an unhashed ULI. If hashing is recommended, the Bureau also invites comment on how such hashing should be done, including whether a random value should be added prior to hashing through a technique called ''salting'' to enhance the encryption.[286]

4(a)(1)(ii)

The Bureau is proposing technical corrections and minor wording changes to § 1003.4(a)(1), which requires reporting of the date the application was received. Regulation C requires institutions to report the date the application was received, and comment 4(a)(1)–1 clarifies that institutions may report either the date of receipt or the date shown on the application form to provide greater flexibility for financial institutions but maintain reliable application date data.

The proposal moves the requirement regarding reporting of the date the application was received to new § 1003.4(a)(1)(ii) to provide a separate citation from loan identifier, which is discussed above. Proposed § 1003.4(a)(1)(ii) provides for reporting of the date the application was received or the date shown on the application form, consistent with comment 4(a)(1)–

[282] *See* Small Business Review Panel Report at 39.

[283] *Id.*

[284] *See id.*

[285] Announcing Draft Federal Information Processing Standard (FIPS) 202, SHA–3 Standard, 79 FR 30549 (May 28, 2014). Additional information on secure hash algorithms is available on the NIST Web site at *http://csrc.nist.gov/groups/ST/toolkit/secure_hashing.html.*

[286] *See generally* Meltem Sönmez Turan et al., *NIST Special Publication 800–132: Recommendation for Password-Based Key Derivation, Part 1: Storage Applications* (Dec. 2010), *available at http://csrc.nist.gov/publications/nistpubs/800-132/nist-sp800-132.pdf*; RSA Laboratories, *PKCS #5 v.2.1: Password-Based Cryptography Standard* (Oct. 5, 2006), *ftp://ftp.rsasecurity.com/pub/pkcs/pkcs-5v2/pkcs5v2_1.pdf.*

1 and instructions in appendix A. Existing comments 4(a)(1)–1, –2, –3, and –5 related to application date would be renumbered as comments 4(a)(1)(ii)–1 through –4. Comment 4(a)(1)–2 related to applications received from brokers would be revised to use terminology consistent with proposed comment 4(a)–4 and the requirement to report application channel information under § 1003.4(a)(33). Finally, the proposal makes technical corrections and minor wording changes to appendix A. Proposed instruction 4(a)(1)(ii)–1 provides for reporting the date the application was received or the date shown on the application form by year, month, and day.

After the Bureau's 2011 Regulation C Restatement was published, the Bureau received a comment from a stakeholder requesting more flexibility in reporting the date the application was received. The stakeholder asserted that differences in definitions of application under various regulations create difficulty with determining an exact date for purposes of Regulation C. During the Small Business Review Panel process, small entity representatives expressed concern about reporting application date for commercial loans.[287] The Small Business Review Panel recommended that the Bureau consider seeking public comment on providing additional guidance on how HMDA reporters may determine the application date.[288] Based on this feedback and consistent with the recommendation of the Small Business Review Panel, the Bureau solicits feedback on whether additional guidance should be provided on how HMDA reporters may determine the application date.

4(a)(2)

HMDA section 304(b)(1) requires financial institutions to report ''the number and dollar amount of mortgage loans which are insured under Title II of the National Housing Act or under Title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of Title 38.'' Section 1003.4(a)(2) currently implements this requirement by requiring financial institutions to report the type of loan or application. Paragraph I.A.3 in appendix A further instructs lenders to identify the type of loan or application as conventional, FHA-insured, VA-guaranteed, or FSA/RHS-guaranteed. The Bureau's proposal retains the current reporting requirement, but incorporates the text of the statutory provision, with conforming modifications, directly into Regulation C.

Regulation C has always required financial institutions to report information regarding the type of loan or application.[289] Section 1003.4 itself does not, however, expressly incorporate the loan types provided for in the statute. The Bureau believes that reflecting the statutory text in § 1003.4 will facilitate future modifications to the instructions in appendix A, which in turn will add clarity and reduce burden. As explained above, the Bureau is also proposing a new term, ''covered loan,'' that includes all types of loans subject to Regulation C in order to simplify the regulation and clarify its requirements. The proposal revises section 1003.4(a)(2) to conform to the use of this term. Accordingly, the Bureau's revised § 1003.4(a)(2) provides for reporting whether the covered loan or application is insured under title II of the National Housing Act, is insured under title V of the Housing Act of 1949, or is guaranteed under chapter 37 of title 38 of the United States Code. The Bureau solicits feedback regarding whether its proposed modifications are appropriate.

The Bureau is proposing to revise the technical instructions related to § 1003.4(a)(2) in appendix A. Proposed instruction 4(a)(2)–1 provides that a financial institution completing the loan application register must select from among four codes to indicate the type of covered loan or application, depending on whether the loan is conventional (Code 1), FHA (Code 2), VA (Code 3), or USDA Rural Development (Code 4). Proposed instruction 4(a)(2)–1.a specifies that Code 2 must be used if the covered loan or application is insured under title II of the National Housing Act. Proposed instruction 4(a)(2)–1.b specifies that Code 3 must be used if the covered loan or application is guaranteed under chapter 37 of title 38 of the United States Code. Proposed instruction 4(a)(2)–1.c specifies that Code 4 must be used if the covered loan or application is insured under title V of the Housing Act of 1949. Finally, proposed instruction 4(a)(2)–1.d specifies that Code 1 must be used if the covered loan or application is not insured under title II of the National Housing Act, not insured under title V of the Housing Act of 1949, and not guaranteed under chapter 37 of title 38 of the United States Code.

4(a)(3)

HMDA section 304(b) requires the disclosure of the number and dollar amount of mortgage loans and home improvement loans, among other things. Section 1003.4(a)(3) of Regulation C requires financial institutions to record the purpose of the loan or application. Appendix A to Regulation C paragraph I.A.5 instructs financial institutions to identify the purpose of a loan or application as either for home purchase, home improvement, or refinancing. The Dodd-Frank Act did not amend the sections of HMDA relevant to the loan purpose reporting requirement. While the Bureau is only proposing technical modifications to § 1003.4(a)(3) to conform to the addition of closed-end mortgage loans, the Bureau is seeking comment regarding whether the loan purpose reporting requirement should be modified with respect to home improvement loans and cash-out refinancings.

Home Improvement Loans

The Bureau has received feedback indicating that the current requirement to identify whether a loan or application is for home improvement purposes is a substantial compliance burden. As discussed in part II.A above, the inability to obtain credit to repair and maintain homes was one of the major factors driving urban deterioration in the 1970s. As a result, Congress was particularly concerned about access to home improvement credit when HMDA was enacted.[290] Home improvement loans were traditionally used for older properties, and community groups and public officials needed data on a neighborhood's ability to maintain the quality of existing housing stock.[291] Issues in this subset of the market have remained over time, as some studies suggest that home improvement lending practices may be a concern in certain neighborhoods and for certain borrowers.[292]

Although home improvement data was a central concern when HMDA was

[287] *See* Small Business Review Panel Report at 39.

[288] Small Business Review Panel Report at 40.

[289] *See* 41 FR 23931 (June 14, 1976).

[290] Sen. Robert Taft, Jr.'s amendment to the draft bill addressed the requirement to collect home improvement loan data: ''The importance of these loans to a neighborhood's health and survival is obvious, particularly since many of the neighborhoods in question have a larger number of older homes in need to repair.'' 121 Cong. Rec. S1281, 13192 (daily ed. July 21, 1975) (statement of Sen. Robert Taft, Jr.).

[291] *See* Randy E. Ryker, Louis G. Pol, & Rebecca F . Guy, *Racial Discrimination as a Determinant of Home Improvement Loans,* 21 Urban Studies 177, 179 (May 1984).

[292] ''The average rejection rate for home improvement loan applications is much higher than that for home purchase loans—30% versus 15%. Also applicants for home improvement loans have lower incomes and live in census tracts with lower housing values than applicants for home purchase loans.'' Emily Y. Lin & Michelle J. White, *Bankruptcy and the Market for Mortgage and Home Improvement Loans,* 50 Journal Of Urban Economics 138, 153 (July 2001).

originally enacted, it may be the case that these data are no longer useful. While consumers routinely resorted to local banks for home improvement loans in the 1970s, after the widespread adoption of credit cards began in the 1980s consumers had alternative means of obtaining credit to repair or improve their homes.[293] This trend may have accelerated during the 1980s and early 1990s, when home-equity lines of credit became an increasingly popular form of credit.[294] In today's market, statistics suggest that HMDA provides the public with relatively little data about home improvement loans. For example, in 2012 home improvement loans comprised only approximately 4.4 percent of all HMDA records.[295] Testimony provided during the Board HMDA Hearings supports the argument that home improvement loan data are of limited value.[296] Thus, the consumer financial market may have evolved to the point where relatively few consumers use secured home improvement loans to repair, renovate, or otherwise improve their homes, and the data provided through HMDA may no longer be useful. The Bureau is concerned about this potential reduction in usefulness, considering that financial institutions frequently state that home improvement reporting is a substantial burden.

As discussed in the section-by-section analysis to § 1003.2(i) above, the Bureau is proposing to exclude unsecured home improvement loans from the scope of Regulation C. While the Bureau believes that this proposed exclusion will address many of the concerns that have been asserted with regard to home improvement loan reporting, it may be the case that the public no longer finds home improvement data useful. For these reasons, the Bureau solicits feedback regarding whether § 1003.4(a)(3) should be modified so that financial institutions would not be required to identify covered loans for the purposes of home improvement. The Bureau requests comment regarding the current utility of these data, whether there are ways to lessen the costs associated with reporting secured home improvement loans, and whether there are ways to improve the usefulness of these data. Finally, the Bureau specifically solicits information related to financial institutions' current cost of reporting secured home improvement loans.

During the Small Business Review Panel process, several small entity representatives expressed concern about the challenges, compliance costs, and examination burdens associated with reporting home improvement loans.[297] The Small Business Review Panel recommended that the Bureau seek comment on any costs and other burdens associated with existing or potential HMDA requirements related to home improvement loans.[298] Consistent with the Small Business Review Panel's recommendation, the Bureau solicits feedback regarding any costs and burdens associated with the current loan purpose requirements related to home improvement loans, as well as the costs and burdens generally associated with Regulation C requirements related to home improvement loans.

Cash-Out Refinancings

The Bureau has received feedback indicating that requiring financial institutions to identify whether a loan or application is for a cash-out refinancing would improve the usefulness of the reported data. Several participants during the 2010 Board Hearings argued that cash-out refinancings should be separately identified in the HMDA data.[299] Studies suggest that cash-out refinancings were commonly offered in the subprime market which, as discussed in part II.A above, was and remains a particular area of concern for many communities.[300] Furthermore, public officials may find information on cash-out refinancings useful for developing programs intended to promote stable homeownership.[301] Thus, requiring financial institutions to identify cash-out refinancings may make the HMDA data more useful.

However, the Bureau is concerned about the potential burdens associated with requiring financial institutions to separately identify cash-out refinancings, and whether such burdens would outweigh the benefit of these additional data. First, the mortgage market does not currently employ a single definition of cash-out refinance. For example, secondary market investors often provide different definitions based on the terms of the transaction.[302] Furthermore, MISMO does not currently provide any definition for cash-out refinancing. In addition, the Bureau has received feedback that financial institutions encounter compliance challenges when determining the purpose of the loan for the existing Regulation C requirements. The Bureau is concerned that adding another purpose-based requirement would further increase the existing burden associated with the reporting requirements.

For these reasons, the Bureau is considering requiring financial institutions to report whether a covered loan or application is for a cash-out refinancing, but wishes to obtain additional information to determine whether such a requirement is appropriate. The Bureau solicits feedback regarding whether § 1003.4(a)(3) should be modified to require financial institutions to identify separately rate-and-term refinancings from cash-out refinancings. The Bureau specifically solicits feedback on whether there is a clear and bright-line definition of cash-out refinancing that would ensure the public is provided with useful data while minimizing the compliance burden associated with this potential reporting requirement. The Bureau specifically requests comment regarding whether this information would assist community groups and consumers in determining whether financial institutions were meeting the housing needs of communities, whether public officials would use this information to develop housing investment programs, and information regarding whether financial institutions are providing cash-out refinancings in a discriminatory manner. The Bureau also seeks feedback regarding the extent to which financial institutions currently differentiate between rate-and-term refinancings and cash-out refinancings and, for those that do not differentiate

[293] *See* Fed. Reserve Bulletin, Changes in Family Finances from 1983 to 1989: Evidence from the Survey of Consumer Finances 13 (Jan. 1992). *See also* David Evans & Richard Schnakebsee, *Paying With Plastic,* Massachusetts Institute of Technology Press 98–100 (1991).

[294] *See* Fed. Reverse Bulletin, Changes in Family Finances from 1983 to 1989: Evidence from the Survey of Consumer Finances 13 (Jan. 1992); Fed. Reserve Bulletin, Changes in Family Finances from 1989 to 1992: Evidence from the Survey of Consumer Finances 874–875 (Oct. 1994).

[295] In 2012, out of 18,691,551 total HMDA records, only 814,857 had a home improvement purpose.

[296] *See, e.g.,* Chicago Hearing, *supra* note 137.

[297] *See* Small Business Review Panel Report at 24.

[298] *See id.* at 40.

[299] *See e.g.,* San Francisco hearing, *supra* note 133; Chicago Hearing, *supra* note 137.

[300] *See* Chris Mayer & Karen Pence, *Subprime Mortgages: What, Where, and to Whom?,* Bd. of Governors of the Fed. Reserve Sys., Finance and Economics Discussion Series 2008–29 at 10 (2008).

[301] For example, a recent study suggests that Texas's strict restrictions on cash-out home-equity lending helped protect Texas homeowners from several of the harms stemming from the mortgage crisis. *See* Anil Kumar & Edward C. Skelton, *Did Home Equity Restrictions Help Keep Texas Mortgages from Going Underwater?,* Fed. Reserve Bank of Dallas (Third Quarter 2013).

[302] *See* Fannie Mae, *Fannie Mae Single-Family Selling Guide,* Sections B2–1.2–02 and B2–1.2–03 (June 24, 2014), *https://www.fanniemae.com/content/guide/sel062414.pdf. See* Freddie Mac, *Single-Family Seller/Servicer Guide,* Vol. I, Chapters 24.6 and 24.7, *http://www.freddiemac.com/sell/guide/.*

between them, the projected cost of upgrading policies, procedures, and systems to make this differentiation.

The Bureau's Proposal

In addition to the requests for feedback regarding home improvement loans and cash-out refinancings addressed above, the Bureau is proposing changes to the loan purpose reporting requirement to conform to the proposed extension of coverage to all dwelling-secured mortgage loans, as discussed above. Accordingly, the Bureau is proposing to modify § 1003.4(a)(3) to provide that financial institutions shall report whether the covered loan is, or the application is for, a home purchase loan, a home improvement loan, a refinancing, or for a purpose other than home purchase, home improvement, or refinancing. The Bureau solicits feedback regarding whether this proposed requirement is appropriate, regarding the costs and benefits associated with this proposed requirements, and regarding whether any additional modifications would be appropriate.

During the Small Business Review Panel process, some small entity representatives expressed concern about the applying the HMDA requirements to commercial loans.[303] The Bureau is soliciting feedback regarding whether it would be appropriate to modify the proposed requirements for commercial transactions, or to exclude commercial transactions from HMDA, in the section-by-section analysis to proposed § 1003.2(d) and (o) and elsewhere in this proposed rule. Should the Bureau determine that an exemption for commercial loans is not appropriate, the Bureau solicits feedback regarding whether it would be appropriate to add a loan purpose requirement applicable to commercial loans or some other method of uniquely identifying commercial loans in the HMDA data.

The Bureau is also proposing to modify comment 4(a)(3)–2 to clarify that § 1003.4(a)(3) requires a financial institution to report the purpose of a covered loan or application and also specifies the order of importance if a covered loan or application is for more than one purpose. For example, if a covered loan is a home purchase loan as well as a home improvement loan or a refinancing, § 1003.3(a)(3) requires the institution to report the loan as a home purchase loan. This proposed comment clarifies that, if a covered loan is a home improvement loan as well as a refinancing, but the covered loan is not a home purchase loan, § 1003.4(a)(3) requires the institution to report the covered loan as a home improvement loan; and further clarifies that, if a covered loan is a refinancing as well as for another purpose, such as for the purpose of paying educational expenses, but the covered loan is not a home purchase loan or a home improvement loan, § 1003.4(a)(3) requires the institution to report the covered loan as a refinancing.

Proposed comment 4(a)(3)–3 clarifies that, if a covered loan is not a home purchase loan, a home improvement loan, or a refinancing, § 1003.4(a)(3) requires a financial institution to report the covered loan as for a purpose other than home purchase, home improvement, or refinancing. For example, if a covered loan is for the purpose of paying educational expenses, the financial institution complies with § 1003.4(a)(3) by reporting the covered loan as for a purpose other than home purchase, home improvement, or refinancing. Under appendix A, proposed instruction 4(a)(3)–1 provides technical instructions regarding how to enter the covered loan or application purpose on the loan application register.

4(a)(4)

Current § 1003.4(a)(4) requires financial institutions to identify whether the application is a request for a covered preapproval. The Bureau is proposing to revise the technical instructions related to paragraph 4(a)(4) in appendix A. Proposed instruction 4(a)(4)–1.a would provide instructions for reporting preapprovals requested. The proposed instruction refers to the definition of a preapproval program in § 1003.2(b)(2) and specifies that the code should not be used for withdrawals or requests for preapprovals that are closed for incompleteness, as these preapprovals are not reportable under Regulation C. These instructions would also be specified in the instructions for reporting action taken under paragraph 4(a)(8) and would be added to the instructions for paragraph 4(a)(4) merely for clarity and completeness. Current instruction I.A.8(a) would be renumbered and revised as instruction 4(a)(4)–1.b, which would incorporate a reference to the proposed definition in § 1003.2(b)(2). Current instruction I.A.8(b) would be renumbered and revised as instruction 4(a)(4)–1.c, which would include technical revisions. Current instruction I.A.8(c) would be renumbered and revised as instruction 4(a)(4)–1.d, which would specify that the category of not applicable should be reported for applications for or originations of home improvement loans, open-end lines of credit, home-equity lines of credit, reverse mortgages, and for purchased loans.

The proposal would also delete the language in § 1003.4(a)(4) relating to whether the request for preapproval was denied or resulted in an origination because it is redundant with requirements under §§ 1003.4(a) and 1003.4(a)(8). The requirement to report action taken on preapprovals is currently contained in the reporting requirement for action taken under § 1003.4(a)(8) and the associated instructions in appendix A. This would continue under the proposal. Proposed § 1003.4(a)(4) and the associated instructions in appendix A would focus solely on whether the application was a request for a preapproval for a home purchase loan.

4(a)(5)

Section 1003.4(a)(5) of Regulation C requires financial institutions to report the property type of the dwelling to which a loan or application relates. Appendix A instructions provide that property type be reported as either a one-to-four-family dwelling (other than manufactured housing), manufactured housing, or a multifamily dwelling.

The Bureau has received feedback that the current reporting requirement has led to questions about how to report modular homes, which are factory-built but meet local building codes instead of the HUD standards for manufactured housing.[304] In addition, the current reporting requirement for property type does not correspond to commonly used industry data standards and recordkeeping because it conflates two distinct concepts, the property's construction method and the number of units in the property.[305]

Proposed § 1003.4(a)(5) replaces the requirement to report property type with the requirement to report the construction method for the dwelling related to the property identified in § 1003.4(a)(9). The Bureau believes this change in Regulation C's implementation of HMDA may more effectively carry out HMDA's purposes and facilitate compliance therewith, by

[303] *See* Small Business Review Panel Report at 24.

[304] Atlanta Hearing, *supra* note 131; FFIEC FAQs.

[305] *See* MISMO, *Version 3.3 of the Residential Reference Model* (Construction Method Type and Financed Unit Count); Fannie Mae, *Fannie Mae Implementation Guide for Loan Delivery Data,* Appendix A (Oct. 29, 2013), *https://www.fanniemae.com/content/technology_requirements/uldd-implementation-guide-appendix-a.pdf.* Freddie Mac, *Freddie Mac Implementation Guide for Loan Delivery Data,* Appendix A (Jan. 29, 2014), *http://www.freddiemac.com/singlefamily/sell/docs/FRE_IG_selling_system_appendix_a_data_requirements.pdf.*

providing more detail regarding whether institutions are serving the housing needs of their communities and by better aligning reporting to industry standards. This proposal is also authorized by the Bureau's authority pursuant to HMDA sections 305(a) and 304(b)(6)(J). A financial institution would report the construction method of the dwelling as site-built or manufactured housing with the proposed instructions in appendix A. During the Small Business Review Panel process, one small entity representative requested definitions and examples of types of construction method.[306] The proposal revises the instructions in appendix A and adds new instructions providing the technical details for reporting these data fields. The Bureau believes that replacing the current property type reporting requirement with construction method will enhance data collected under this part and better align it with industry practice.

As discussed below, the Bureau is also proposing to require financial institutions to report the total number of dwelling units related to the property under § 1003.4(a)(31). The data reported under proposed § 1003.4(a)(31), combined with the proposed definition of multifamily dwelling discussed above, replace the enumeration for multifamily dwellings under § 1003.4(a)(5). The Bureau believes that separating these concepts may have benefits for analyzing HMDA data. For example, the Bureau understands that there has been confusion over reporting home purchase loans that are secured by a manufactured home park and multiple manufactured homes on-site, because manufactured housing and multifamily dwelling are enumerations of the same data point.[307] Under the proposal, construction method of the dwelling could be identified under proposed § 1003.4(a)(5) and the number of manufactured homes could be identified under proposed § 1003.4(a)(31).

The proposed instructions in appendix A provide that modular housing should be reported as site built. The Bureau understands that appraisals do not always distinguish between a modular home and a site built home, and that for many purposes modular homes are treated like site built homes.[308] There has been confusion as to how to report modular housing under current Regulation C, and the proposal is intended to facilitate compliance in this area. The proposed instructions under appendix A also provide that the use of prefabricated components for construction should be reported as site built.

The Bureau is proposing to add a new comment under § 1003.4(a)(5). Proposed comment 4(a)(5)–1 would provide additional guidance on identifying and reporting modular homes. Modular homes are distinct from manufactured homes, and the Bureau believes the comment will facilitate compliance by describing and providing guidance on reporting modular homes. The comment notes that modular homes are built to local or other recognized building codes instead of the HUD manufactured home standards and that they do not bear the identifying markers for a manufactured home. The comment also distinguishes between on-frame modular homes (which are built on permanent metal chassis similar to manufactured homes) and off-frame modular homes (which do not have metal chassis). The MISMO data standard treats on-frame and off-frame modular home as separate construction method types.[309] The Bureau understands that there are secondary market implications affecting the salability of loans secured by on-frame modular homes.[310] The ULDD implementation of the MISMO data standard treats all modular homes as site built for purposes of construction method, consistent with the proposal.[311]

The Bureau also proposes comment 4(a)(5)–2 to clarify how to report construction method where a covered loan is secured by more than one property. As discussed in the section-by-section analysis of proposed § 1003.4(a)(9) and in proposed comment 4(a)(9)–2, if more than one property is taken, or in the case of an application, proposed to be taken as security for a single covered loan or application, a financial institution may either report one of the properties in a single entry on its loan application register or report all of the properties using multiple entries on its loan application register. Regardless of whether the financial institution elects to report the transaction in one entry or more than one entry, the information required by § 1003.4(a)(5) should relate to the property identified under paragraph 4(a)(9). The Bureau solicits feedback generally on whether the proposed revisions are appropriate or whether more detailed enumerations for construction method would be appropriate.

4(a)(6)

HMDA section 304(b)(2) requires the disclosure of the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan. Section 1003.4(a)(6) of Regulation C requires financial institutions to record the owner-occupancy status of the property to which the loan or application relates. Appendix A to Regulation C paragraph I.A.6 instructs financial institutions to identify the owner-occupancy status as either owner-occupied as a principal dwelling, not owner-occupied as a principal dwelling, or not applicable. While the Dodd-Frank Act did not amend the sections of HMDA relevant to the owner-occupancy status reporting requirement, section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA to permit the disclosure of such other information as the Bureau may require. For the reasons discussed below, the Bureau is proposing to require financial institutions to report whether a property will be used as a principal residence, as a second residence, or as an investment property.

As discussed in part II.A above, providing the public with data related to whether properties were occupied by an owner was one of Congress's primary goals when HMDA was originally enacted. Information about the number of homeowners, absentee landlords, and real estate speculators was viewed as necessary to help communities stabilize and improve their neighborhoods.[312] To address these concerns, the Board interpreted HMDA section 304(b)(2) to

[306] *See* Small Business Review Panel Report at 80.

[307] FFIEC, *CRA/HMDA Reporter* 3 (Dec. 2010) (''It is a common misconception that the purchase of an entire mobile home park (e.g., the purchase of five or more individual mobile homes) should be reported as a multifamily property type. Because each mobile home falls within the definition of an individual unit, the property type should be reported as manufactured housing.''), *http://www.ffiec.gov/hmda/pdf/10news.pdf.*

[308] Atlanta Hearing, *supra* note 131.

[309] *See* MISMO, *Version 3.3 of the MISMO Residential Reference Model* (Construction Method Type).

[310] *See* Fannie Mae, *Fannie Mae Single Family Selling Guide* § B2–3–02 (June 24, 2014) (defining any dwelling unit built on a permanent chassis as a manufactured home and requiring manufactured homes to meet HUD manufactured home construction standards), *http://www.fanniemae.com/content/guide/sel062414.pdf.*

[311] Fannie Mae, *Fannie Mae Implementation Guide for Loan Delivery Data,* Appendix A (Oct. 29, 2013), *https://www.fanniemae.com/content/technology_requirements/uldd-implementation-guide-appendix-a.pdf*; Freddie Mac, *Freddie Mac Implementation Guide for Loan Delivery Data,* Appendix A (Jan. 29, 2014), *http://www.freddiemac.com/singlefamily/sell/docs/FRE_IG_selling_system_appendix_a_data_requirements.pdf.*

[312] *See e.g.,* Home Mortgage Disclosure Act of 1975, S. Rep. 94–187, p. 279 (June 6, 1975); Home Mortgage Disclosure Act of 1975, H. Rep. 94–561, p. 117 (Oct. 19, 1975).

require financial institutions to differentiate between loans secured by a property intended to be used as a principal or non-principal dwelling.[313] Although this requirement has been refined over time, the core requirement—whether or not the property is used as a principal dwelling—remains to this day.[314]

While the current requirement historically has furthered the purposes of HMDA, several considerations suggest that more granular information related to non-principal dwellings may be necessary. First, over the past several years the increasing popularity of vacation and investment properties has affected the housing supply and economies of many communities. Evidence suggests that the increasing popularity of vacation homes has contributed to a lack of affordable housing in several areas.[315] In addition to affecting housing affordability, the economic effect of vacation home purchases is often complex, which presents local governments with unique challenges.[316] While the prevalence of vacation homes presents communities with several unique economic issues, the purchase of homes by investors (*i.e.,* persons who do not occupy purchased properties, even as vacation homes) presents communities with an entirely different set of challenges. Recent studies have demonstrated that the speculative purchase of homes by investors contributed to the housing bubble that preceded the financial crisis, especially in the States that were most affected by the downturn.[317] These investor purchases may be a concern for urban areas, many of which are experiencing a sharp increase in such purchases.[318] Thus, information related to second homes and investment properties may help communities and local officials develop policies tailored to the unique characteristics associated with these separate segments of the mortgage market.

Furthermore, the mortgage market has evolved to the point where lending policies and procedures differentiate between principal dwellings, second homes, and investment properties. Financial institutions and investors often apply underwriting criteria tailored to each property type.[319] Furthermore, large and small lenders often use marketing specifically targeting potential purchasers of vacation or investment properties, and many institutions specialize in this type of lending. In addition, mortgage loan pricing often varies based on whether the property will be used as a principal, second, or investment property.[320] Thus, updating the reporting requirements related to second or investment properties may be necessary to ensure that the reported data is a useful reflection of the current mortgage market.

When these considerations are taken together, it appears that the concerns that motivated the original distinction between principal and non-principal dwellings now exist with respect to second homes and investment properties. For these reasons, to implement section 304(b)(2) of HMDA and pursuant to its authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing to modify § 1003.4(a)(6) to provide that a financial institution shall report whether the property identified in § 1003.4(a)(9) is or will be used by the applicant or borrower as a principal residence, as a second residence, or as an investment property. The Bureau solicits feedback regarding whether this proposed modification is appropriate. While the Bureau believes that financial institutions currently differentiate between principal, second, and investment properties for underwriting, pricing, and other purposes, the Bureau solicits feedback regarding whether, and the extent to which, financial institutions do not recognize this differentiation, and whether financial institutions would encounter unique costs or burdens associated with this proposed requirement.

During the Small Business Review Panel process, some small entity representatives expressed concerns about differentiating between principal, second, and investment properties for reporting purposes.[321] The Small Business Review Panel recommended that the Bureau solicit public comment on the challenges associated with requiring financial institutions to report owner-occupancy status as including reporting second home and investment uses, rather than just principal residence occupancy.[322] Consistent with the Small Business Review Panel's recommendation, the Bureau requests feedback regarding the challenges small financial institutions currently face when reporting owner-occupancy status, and the additional costs and burdens that small financial institutions would face if the current reporting requirement were modified to require reporting of whether a property is or will be used by the applicant or borrower as a second residence or investment property.

Proposed comment 4(a)(6)–2 clarifies that, for purposes of § 1003.4(a)(6), an applicant or borrower can have only one principal residence at a time. Thus, a vacation or other second home would not be a principal residence. However, if an applicant or borrower buys or builds a new dwelling that will become the applicant's or borrower's principal residence within a year or upon the completion of construction, the new dwelling is considered the principal residence for purposes of applying this definition to a particular transaction.

Proposed comment 4(a)(6)–3 explains that, for purposes of § 1003.4(a)(6), a property is an applicant's or borrower's second residence if the property is or will be occupied by the applicant or

[313] *See* 41 FR 23933 (June 14, 1976).

[314] Financial institutions were originally required to report occupancy data indirectly, by identifying the number of loans secured by owner-occupied dwellings separately from non-owner occupied dwellings, in a column-based format. *Id.* When the Board adopted the register reporting format, financial institutions were required to report occupancy status on a record-by-record basis. *See* 54 FR 51356 (Dec. 15, 1989). Additional instructions and commentary were added over time to clarify and refine the requirement. *See e.g.,* 60 FR 63393, 63399 (Dec. 11 1995) (adopting relevant commentary); 67 FR 7222, 7239 (Feb. 15, 2002) (adding additional instructions).

[315] *See* Deborah Halliday, *You Can't Eat the View: The Loss of Housing Affordability in the West,* The Rural Collaborative pp. 9–10 (2003), *available at http://www.theruralcollaborative.org/files/you%20can't%20eat%20the%20view.pdf.*

[316] *See* Linda Venturoni, *The Economic and Social Effects of Second Homes—Executive Summary,* Northwest Colorado Council of Governments pp. 4–5 (June 2004) (stating that as the number of second homes in a community increases, the more the local economy will shift towards serving the needs of the second homes).

[317] *See* Andrew Haughwout, Donghoon Lee, Joseph Tracy, and Wilbert van der Klaauw, *Real Estate Investors, the Leverage Cycle, and the Housing Market Crisis,* Fed. Reserve Bank of New York Staff Report No.514 p. 21 (Sept. 2011).

[318] *See e.g.* Allan Mallach, *Investors and Housing Markets in Las Vegas: A Case Study,* Urban Institute pp. 32–34 (June 2013) (discussing that foreign real estate investors in Las Vegas are crowding out potential domestic purchasers); Robert D. Cruz and Ebony Johnson, *Research Notes on Economic Issues: Impact of Real Estate Investors on Local Buyers,* Miami-Dade County Regulatory and Economic Resources Dept. (Sept. 2013) (analyzing how domestic first-time home purchasers are at a competitive disadvantage compared to foreign real estate investors); Kathleen M. Howley, *Families Blocked by Investors from Buying U.S. Homes,* Bloomberg, Oct. 24, 2013 (discussing that the rise of all-cash purchases, among other things, has prevented many potential homeowners from purchasing homes).

[319] *See e.g.,* Fannie Mae, *Fannie Mae Single-Family Selling Guide,* Chapter B2–3 (October 22, 2013), *https://www.fanniemae.com/content/guide/sel102213.pdf*; Freddie Mac, *Freddie Mac Single-Family Seller/Servicer Guide,* Vol. I, Chapters 22.22 and 22.22.1, *available at http://www.freddiemac.com/sell/guide/.*

[320] *See e.g.,* Fannie Mae, *Fannie Mae Single-Family Selling Guide,* Chapter B2–1.2–02 and B2–1.2–03 (October 22, 2013), *available athttps://www.fanniemae.com/content/guide/sel102213.pdf.*

[321] *See* Small Business Review Panel Report at 33, 42, and 100.

[322] *See id.* at 42.

borrower for a portion of the year and is not the applicant's or borrower's principal residence. For example, if a person purchases a property, occupies the property for a portion of the year, and rents the property for the remainder of the year, the property is a second residence for purposes of § 1003.4(a)(6). Similarly, if a couple occupies a property near their place of employment on weekdays, but the couple returns to their principal residence on weekends, the property near the couple's place of employment is a second residence for purposes of § 1003.4(a)(6).

Proposed comment 4(a)(6)–4 clarifies that, for purposes of § 1003.4(a)(6), a property is an investment property if the owner does not occupy the property. Similarly, if a person purchases a property, does not occupy the property, and does not generate income by renting the property, but intends to generate income by selling the property at some point in time, the property is an investment property for purposes of § 1003.4(a)(6). Section 1003.4(a)(6) requires a financial institution to identify a property as an investment property if the owner does not occupy the property, even if the owner does not consider the property as owned for investment purposes. Proposed comment 4(a)(6)–4 also provides several illustrative examples. Under appendix A, proposed instruction 4(a)(6)–1 provides technical instructions regarding how to enter the occupancy type on the loan application register by stating that financial institutions should enter one of four codes, and identifying which codes are applicable to the covered loan or application.

As discussed in the section-by-section analysis to proposed § 1003.4(a)(9) and in proposed comment 4(a)(9)–2, if more than one property is taken, or in the case of an application, proposed to be taken as security for a single covered loan or application, a financial institution may report one of the properties in a single entry on its loan application register or report all of the properties using multiple entries on its loan application register. Regardless of whether the financial institution elects to report the transaction in one entry or more than one entry, the information required by § 1003.4(a)(6) should relate to the property identified under § 1003.4(a)(9). The Bureau is also proposing comment 4(a)(6)–5 to clarify how to report the information required by proposed a covered loan secured by, or in the case of an application, proposed to be secured by, more than one property. The Bureau solicits feedback generally on whether the proposed revisions are appropriate or whether more detailed enumerations for construction method would be appropriate.

As discussed in part II.B above, one of the Bureau's objectives in this proposed rule is to reduce the fixed and ongoing costs associated with reporting HMDA data by aligning to the extent practicable to MISMO. MISMO version 3.3 currently defines an investment property by reference to whether the property will generate rental income. The Bureau is concerned that MISMO's definition does not encompass all properties that commonly would be considered investment properties. For example, a person that purchases a property for a family member to reside in, with the expectation of generating income upon the sale of the property in the future, may consider the property an investment property. Similarly, a person that purchases a property to renovate and sell, but does not reside in the property, may also view the property as an investment property. However, the properties described in these scenarios would not be considered investment properties under the definition in MISMO version 3.3. As a result, to provide clear reporting rules while aligning to MISMO, proposed instruction 4(a)(6)–1 provides one instruction for reporting investment properties that generate income by the rental of the property, and another instruction for reporting investment properties that do not generate income by the rental of the property. The Bureau believes that this proposed instruction will align to MISMO while accommodating financial institutions that are reporting investment properties that are not recognized as such under MISMO, but solicits feedback on this proposed approach, and solicits feedback regarding whether any additional clarifications or changes are needed to facilitate compliance.

Section 1003.4(a)(6) is proposed to implement section 304(b)(2) of HMDA, and is also proposed pursuant to the Bureau's authority under sections 305(a) and 304(b)(6)(J) of HMDA. The Bureau believes requiring this level of detail about residency status is a reasonable interpretation of HMDA section 304(b)(2). Furthermore, for the reasons given above, the Bureau believes this change is necessary and proper to effectuate HMDA's purpose, because this information will help determine whether financial institutions are serving the housing needs of their communities and will assist in decisions regarding the distribution of public sector investments. This proposal may also facilitate compliance with HMDA, by aligning to the extent practicable to MISMO standards, thereby reducing costs associated with HMDA reporting.

4(a)(7)

Section 304(a) and (b) of HMDA requires the disclosure of the dollar amount of loans and applications subject to the statute.[323] Section 1003.4(a)(7) of Regulation C requires financial institutions to report the amount of the loan or the amount applied for. Paragraph I.A.7 in appendix A instructs financial institutions to report loan amount rounded to the nearest thousand and clarifies how to determine and report loan amount with respect to various types of transactions. Comments 4(a)(7)–1 through –4 provide additional explanation concerning how loan amount is to be determined and reported.

The Bureau is proposing several technical, conforming, and clarifying modifications to § 1003.4(a)(7) and its corresponding instructions and comments. These proposals include moving into the text of § 1003.4(a)(7) several requirements currently found in instructions and comments, and moving into the commentary several explanations and clarifications currently found in appendix A. The Bureau is also proposing to modify the amount reported for an open-end line of credit and clarify what amount should be reported for a reverse mortgage. Finally, the Bureau is proposing that loan amount be reported in dollars rather than rounded to the nearest thousand.

Proposed § 1003.4(a)(7) requires financial institutions to report the amount of the covered loan or the amount applied for, as applicable. Proposed § 1003.4(a)(7)(i) provides that for a closed-end mortgage loan, other than a purchased loan or an assumption, a financial institution shall report the amount to be repaid as disclosed on the legal obligation. Proposed § 1003.4(a)(7)(i) further provides that, for a purchased closed-end mortgage loan or an assumption of a closed-end mortgage loan, the financial institution shall report the unpaid principal balance at the time of purchase or assumption. Proposed § 1003.4(a)(7)(i) incorporates requirements currently set forth in paragraph I.A.7(a) and (b) of appendix A and comment 4(a)(7)–4.

Proposed § 1003.4(a)(7)(ii) provides that for an open-end line of credit, including a purchased open-end line of credit or an assumption of an open-end line of credit, a financial institution shall report the amount of credit available to the borrower under the

[323] 12 U.S.C. 2803(a), (b).

terms of the plan. The Bureau proposes to collect the full line, rather than only the portion intended for home purchase or improvement, as is currently required by paragraph I.A.7(d) of appendix A and comment 4(a)(7)–3. The Bureau believes that this modification will produce more consistent and reliable data on open-end lines of credit and will reduce burdens on financial institutions associated with determining the purposes of open-end lines of credit. This proposed provision also clarifies how loan amount should be determined for purchases and assumptions of open-end lines of credit.

Proposed § 1003.4(a)(7)(iii) provides that, for a reverse mortgage, the amount of the covered loan is the initial principal limit, as determined pursuant to section 255 of the National Housing Act (12 U.S.C. 1715z–20) and implementing regulations and mortgagee letters prescribed by HUD. Regulation C is currently silent as to how loan amount should be determined for a reverse mortgage. The Bureau believes that industry is familiar with HUD's Home Equity Conversion Mortgage Insurance Program and its implementing regulations and mortgagee letters and that this modification will produce more consistent and reliable data on reverse mortgages. The Bureau solicits feedback regarding whether this proposed modification is appropriate and specifically solicits feedback on the determination of loan amount for non-federally insured reverse mortgages.

Proposed instruction 4(a)(7)–1 provides that the amount of the covered loan or the amount applied for, as applicable, shall be reported in dollars. Currently, loan amount is reported rounded to the nearest thousand. The Dodd-Frank Act requirement that financial institutions report property value will allow the calculation of loan-to-value ratio, an important underwriting variable, but rounded loan amount will render these calculations less precise, undermining their utility to analyses for HMDA purposes. Accordingly, the Bureau proposes that loan amount be reported in dollars. The Bureau solicits feedback on these proposals.

The Bureau proposes to delete paragraph I.A.7(a) and (b) in appendix A and comment 4(a)(7)–4 because these requirements have been incorporated into proposed § 1003.4(a)(7)(i). The Bureau proposes to delete the remainder of the instructions set forth in appendix A relating to paragraph 4(a)(7) and incorporate them into proposed new comments, as discussed below.

The Bureau is proposing technical changes and minor wording changes to comment 4(a)(7)–1 to conform the comment to proposed changes in § 1003.4(a)(7). Proposed comment 4(a)(7)–2 explains how loan amount is to be determined for an application that was denied or withdrawn and incorporates, with minor wording changes, paragraph I.A.7(f) of appendix A. Proposed comment 4(a)(7)–3 explains how loan amount is to be determined for a multi-purpose loan and is renumbered from current comment 4(a)(7)–2, modified to conform to proposed changes concerning reporting loan amount for home-equity lines of credit. Proposed comment 4(a)(7)–4 is renumbered from current comment 4(a)(7)–3 and incorporates paragraph I.A.7(d) of appendix A, modified to conform to proposed changes concerning reporting loan amount for home-equity lines of credit. Proposed comment 4(a)(7)–5 describes how to determine loan amount for a refinancing and incorporates with some modifications paragraph I.A.7(e) of appendix A. Proposed comment 4(a)(7)–6 describes how to determine loan amount for a home improvement loan and incorporates with some modifications paragraph I.A.7(c) of appendix A.

4(a)(8)

Regulation C § 1003.4(a)(8) requires financial institutions to report the action taken on applications covered by HMDA and the date the action was taken. The proposal would revise the commentary under § 1003.4(a)(8) with respect to rescinded loans, repurchased loans, conditional approvals, and applications received by third parties. The proposal also makes technical corrections and minor wording changes to the instructions in appendix A to use terminology consistent with other changes in the proposal.

Rescinded Loans

Regulation Z provides for a right to rescind certain credit transactions in which a security interest will be retained or acquired in a consumer's principal dwelling. 12 CFR 1026.15(a), 1026.23(a). Comment 4(a)(8)–2 permits institutions to report action taken for rescinded transactions as either an origination or an application approved but not accepted. The Board adopted this comment in 1995, noting that it believed a strict requirement was not warranted in light of the small number of loans rescinded.[324] The proposal would revise the comment to require institutions to report rescinded transactions as applications approved but not accepted if a borrower rescinds a transaction after closing and before a financial institution is required to submit its loan application register containing the information for the transaction under § 1003.5(a). The Bureau believes that approved but not accepted more accurately reflects the outcome of a rescinded transaction, that having all such transactions reported with the same action taken will improve data consistency, and that a bright-line rule provides clear guidance to financial institutions. The Bureau solicits feedback on how frequently rescission is exercised and whether the proposed change is appropriate.

Conditional Approvals

Current comment 4(a)(8)–4 describes how institutions should report action taken for conditional approvals that are issued to applicants. The commentary generally provides that financial institutions should report loans approved subject to underwriting conditions which are not met should be reported as a denial, but it also provides that certain customary loan commitment or loan-closing conditions are not underwriting conditions. Additional guidance on this topic had been published in the FFIEC FAQs.[325]

A participant at the Board's 2010 Board HMDA Hearings stated that existing guidance on how to report action taken for conditional approvals was not sufficiently clear and current business practices often involve issuing conditional approvals based on an automated underwriting system result subject to several conditions.[326] The Bureau has also received feedback that financial institutions experience compliance burden in attempting to determine whether certain conditions are underwriting conditions or customary commitment or closing conditions, and in turn what the appropriate action taken code is for reporting purposes.

The proposal would renumber current comment 4(a)(8)–4 as 4(a)(8)–5 and revise it to expand the examples of conditions that are considered customary commitment or closing conditions and those that are considered underwriting or creditworthiness conditions. The proposal also revises the comment to provide examples of scenarios when conditionally approved applications could be reported as withdrawn, closed for incompleteness, and approved but not accepted. The

[324] 60 FR 63393, 63396 (Dec. 11, 1995).

[325] FFIEC FAQs.

[326] *See* Washington Hearing, *supra* note 130.

Bureau believes that the revised comment will provide more clarity on reporting action taken for loans and applications that involve conditional approvals.

Proposed comment 4(a)(8)–5 would add several examples of how to report action taken when a conditional approval is issued. If the approval is conditioned on satisfying underwriting or creditworthiness conditions and they are not met, the institution reports the action taken as a denial. If, however, the conditions involve submitting additional information about creditworthiness that the institution needs to make the credit decision, and the institution has sent a written notice of incompleteness under Regulation B and the applicant did not respond within the period of time specified in the notice, the institution reports the action taken as file closed for incompleteness. If the conditions are solely customary commitment or closing conditions and the conditions are not met, the institution would report the action taken as approved but not accepted. If all the conditions (underwriting, creditworthiness, or customary commitment or closing conditions) are satisfied and the institution agrees to extend credit but the covered loan is not originated, the institution would report the action taken as application approved but not accepted. If the applicant expressly withdraws before satisfying all underwriting or creditworthiness conditions and before the institution denies the application or closes the file for incompleteness, the institution reports the action taken as application withdrawn. If all underwriting and creditworthiness conditions have been met, and the conditions are solely customary commitment or closing conditions and the applicant expressly withdraws before the covered loan is originated, the institution would report the action taken as application approved but not accepted.

Proposed comment 4(a)(8)–5 would provide additional examples of customary commitment or closing conditions. These examples include: acceptable title insurance binder; clear termite inspection; a subordination agreement from another lienholder; and where the applicant plans to use the proceeds from the sale of one home to purchase another; a settlement statement showing adequate proceeds from the sale. The existing examples of a clear-title requirement and acceptable property survey are retained.

Proposed comment 4(a)(8)–5 would also provide examples of underwriting or creditworthiness conditions. These examples include: conditions that constitute a counter-offer; satisfactory debt-to-income ratio or loan-to-value ratio; determination of the need for private mortgage insurance; satisfactory appraisal requirement; or verification or confirmation that an applicant meets underwriting conditions; including documentation of income or assets.

These additions in proposed comment 4(a)(8)–5 are adapted and developed from the FFIEC FAQs, as well as from feedback received by the Bureau. The Bureau believes these additions are appropriate, but solicits feedback on this conclusion and whether any other examples would be appropriate.

Applications Received by Third Parties

The proposal adds comment 4(a)(8)–6 to provide guidance on how financial institutions should report applications involving more than one institution. The comment cross-references comment 4(a)–4 regarding such applications.

Other Revisions

The proposal makes technical corrections and minor wording changes to several comments. Current comments 4(a)(8)–5, –6, and –7 are renumbered as comments 4(a)(8)–7, –8, and –9, respectively, and are revised to use terminology consistent with other changes in the proposal. Proposed comment 4(a)(8)–4 directs financial institutions to refer to proposed comment 4(a)–6 regarding reporting requirements when a covered loan is repurchased by the originating financial institution.

4(a)(9)

As discussed in detail below, HMDA, as implemented through Regulation C, requires financial institutions to report certain information about the location of the property related to most reported loans and applications. Specifically, Regulation C requires financial institutions to report the MSA or MD, State, county, and census tract of the property related to most reported loans or applications.[327]

Section 1094(3)(A)(iv) of the Dodd-Frank Act amended HMDA to authorize the Bureau, as it may determine to be appropriate, to collect the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral. This parcel number would specifically identify the property securing or, in the case of an application, proposed to secure each covered loan. As amended by the Dodd-Frank Act, HMDA also directs the Bureau, with the assistance of certain other agencies and persons as the Bureau deems appropriate, to ''develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of [HMDA].''[328] The Bureau proposes to implement the Dodd-Frank Act authorization to collect a parcel number as discussed below.

4(a)(9)(i)

Currently, Regulation C does not require financial institutions to report information specifically identifying the property securing or, in the case of an application, proposed to secure the covered loan. Rather, as discussed in detail below, Regulation C requires financial institutions to report the MSA or MD, State, county, and census tract of the property related to most reported loans or applications.[329] The Dodd-Frank Act amended HMDA to authorize the Bureau to collect the ''parcel number that corresponds to the real property'' securing the covered loan or, in the case of an application, proposed to secure the covered loan.[330] As discussed below, there is no universal parcel number system; therefore, the Bureau believes it is reasonable to interpret the Dodd-Frank Act amendment to refer to information that uniquely identifies a dwelling pledged or proposed to be pledged as collateral (parcel identifier). Proposed § 1003.4(a)(9)(i) is also authorized pursuant to the Bureau's HMDA section 305(a) authority to provide for adjustments because, for the reasons given below, the Bureau believes the proposal is necessary and proper to effectuate HMDA's purposes and facilitate compliance therewith. For the reasons discussed below, the Bureau proposes to require financial institutions to report the postal address of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan. The Bureau also is exploring operational improvements that it can achieve using the reported postal address to reduce financial institutions' property-location reporting burden.

Including a parcel identifier in the HMDA data would provide many benefits that would further HMDA's purposes. Researchers and community

[327] *See* § 1003.4(a)(9).

[328] Dodd-Frank Act section 1094(6); 12 U.S.C. 2806(a)(1).

[329] *See* § 1003.4(a)(9).

[330] HMDA section 304(b)(6)(H) authorizes the Bureau to include in the HMDA data collection ''the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral.'' 12 U.S.C. 2803(b)(6)(H).

advocates urged the Board to adopt a parcel identifier during the Board's 2010 Hearings.[331] Collecting a parcel identifier linked to the property's location, like postal address, may address many of the challenges associated with the current property location information reported in HMDA. Currently, census tract is the most granular property location information reported in HMDA. Census tract information enables public officials and members of the public to identify lending trends in geographic areas. Census tracts, however, present challenges as a unit of analysis because they vary in geographic size and may change every ten years.[332] In addition, analysts are not able to evaluate the HMDA data using geographic divisions other than those reported in HMDA (*e.g.,* census tract block) and, as a result, experience difficulty identifying more localized lending trends.

With more specific information about the location of a property, the Bureau and other agencies would be able to evaluate and, for example, issue publicly available summary reports evaluating HMDA data based on different geographic divisions than census tract. These data and reports may facilitate a better understanding of lending trends in geographic divisions smaller than census tract. Geographic areas that would benefit from special public or private sector investment may be identified with greater precision. These data and reports may also enable more precise analysis of lending patterns to identify potential fair lending redlining concerns.

Including a parcel identifier linked to the location of a property, like postal address, in the HMDA data may also present opportunities for the Bureau to reduce the burden for financial institutions associated with the current property location reporting. The Bureau understands from industry feedback that ''geocoding,'' (*i.e.,* providing the census tract, MSA or MD, county and State of a property) is a challenging and costly aspect of HMDA reporting. Financial institutions report frequent examination errors relating to geocoding. The Bureau believes that the Dodd-Frank Act's authorization to collect a parcel identifier and directive to facilitate economical compliance with matching addresses and census tracts may provide a unique opportunity to improve the reporting process. The Bureau is exploring operational changes that it may achieve using the reported postal address that would reduce the burden associated with geocoding. For example, the Bureau may create a system where a financial institution reports only the postal address and the Bureau provides the financial institution with the census tract, county, MSA or MD, and State. The Bureau believes that these potential operational changes, if achieved, would be a significant benefit to collecting postal address. If the Bureau is not able to achieve these operational changes, the Bureau may not elect to finalize the proposal to collect postal address, but likely would finalize the proposal discussed below in the section-by-section analysis of proposed § 1003.4(a)(9)(ii) to continue to collect the currently required property location information (State, MSA or MD, County, and census tract).

In addition, a parcel identifier would allow for the identification of multiple loans secured by the same property, which would allow for better understanding of the amount of equity retained in that property over time. Had these data been available leading up to the financial crisis, public officials may have been able to see the extent to which borrowers used up their equity through rapid refinancings. In addition, they would have been able to identify which financial institutions were offering these refinancings, which were often unsound.

Collecting a parcel identifier presents a number of practical challenges. Currently, no universal standard exists for identifying a property so that it can be linked to related mortgage data. There is no single authoritative source that delivers or maintains parcel numbering. Parcel data are collected and maintained by individual local governments with limited State or Federal involvement. Local jurisdictions do not use a standard way to identify properties. In addition, local parcel data are not easily linked to the location of the property, which, as discussed above, substantially amplifies the usefulness of a parcel identifier. Both the postal address and geospatial coordinates of a property are linked to the location of the property and uniquely identify most properties. However, there may be inaccuracies associated with both postal address and geospatial coordinates. For example, neither the postal address nor the geospatial coordinates may be available at the time of origination for properties located in new developments. In addition, both postal address and geospatial coordinates present standardization issues. Financial institutions may not collect and record postal address in the same format. Likewise, financial institutions may not use the same methods for collecting and recording geospatial coordinates. The Bureau understands that financial institutions currently collect postal address during the mortgage origination and application process if the postal address is available, but that not all financial institutions collect geospatial coordinates.

In addition to the practical challenges discussed above, the Bureau recognizes that including a parcel identifier in the HMDA data raises privacy concerns because a parcel identifier, like a postal address, can easily be used to identify a borrower. The Bureau is sensitive to the privacy implications of including postal address in the HMDA data and has considered these implications carefully.[333]

The Bureau believes that it may be appropriate to collect a parcel identifier linked to the location of a property, given the potential benefits of such information to the purposes of HMDA. Collecting postal address may be the least burdensome way to obtain a parcel identifier because financial institutions generally collect postal addresses during the application and origination process.

Accordingly, pursuant to its authority under HMDA sections 305(a) and 304(b)(6)(H), the Bureau proposes § 1003.4(a)(9)(i), which provides that a financial institution is required to report the postal address of the property securing or, in the case of an application, proposed to the covered loan. Proposed § 1003.4(a)(9)(i) applies to all reported covered loans and applications secured by or, in the case of an application, proposed to be secured by any type of manufactured housing. As the Bureau explains further in the section-by-section analysis of proposed § 1003.4(a)(29), the Bureau believes that it is reasonable to implement HMDA through Regulation C to treat mortgage loans secured by all manufactured homes, regardless of the dwelling's legal classification under State law, consistently. The Bureau further believes that collecting the postal address of all covered loan secured by (and applications for covered loans proposed to be secured by) any

[331] *See, e.g.,* Washington Hearing, *supra* note 130 (remarks of Lisa Rice, Vice President, National Fair Housing Alliance).

[332] *See, e.g.,* United States Census Bureau, Geographic Terms and Concepts-Census Tract, *http://www.census.gov/geo/reference/gtc/gtc_ct.html.*

[333] For discussion of the Bureau's approach to protecting applicant and borrower privacy in light of the goals of HMDA, see part II.C, above. As discussed in part II.C, the Bureau's assessment of the risks to privacy interests created by the disclosure of HMDA data and the benefits of such disclosure under its balancing test is ongoing. Because property address can be used to directly identify individual borrowers, however, the Bureau anticipates that property address would not be made available to the general public.

manufactured home is necessary and proper to effectuate HMDA's purposes and facilitate compliance therewith. The Bureau solicits feedback regarding whether to collect a parcel identifier generally and whether postal address is the appropriate way to collect a parcel identifier.

During the Small Business Review Panel process, small entity representatives expressed concerns about the challenges of implementing a parcel identifier for entries that do not result in an origination.[334] Consistent with that feedback, the Bureau proposes instructions in appendix A that allow a financial institution to omit certain of the required data fields if aspects of the property's postal address are not known. The Small Business Review Panel recommended that the Bureau solicit feedback on whether to require reporting of a parcel identifier for all entries or only for originations and purchases.[335] Consistent with that recommendation, the Bureau solicits feedback on whether to require reporting of a parcel identifier for all entries.

4(a)(9)(ii)

Under HMDA and Regulation C, a financial institution is required to report the location of the property to which the covered loan or application relates by MSA or MD; State; county; and census tract if the loan is related to a property in an MSA or MD in which the financial institution has a home or branch office.[336] In addition, § 1003.4(e) requires banks and savings associations that are required to report data on small business, small farm, and community development lending under regulations that implement the CRA to collect the location of property located outside MSAs and MDs in which the institution has a home or branch office or outside of any MSA. Section I.C.3 of appendix A directs financial institutions to enter ''not applicable'' for census tract if the property is located in a county with a population of 30,000 or less. The Bureau proposes to renumber existing § 1003.4(a)(9) as § 1003.4(a)(9)(ii) and to make certain nonsubstantive technical modifications for clarification. The Bureau does not propose any changes to § 1003.4(e). The Bureau solicits feedback on whether the proposal is appropriate generally and on the benefits and burdens of the proposal.

The Bureau has received feedback from industry that reporting property location information is a challenging and costly aspect of HMDA reporting. As discussed above, the Bureau is exploring ways that it can reduce the burden associated with geocoding, such as operational changes that may enable the Bureau to perform geocoding for financial institutions. For example, the Bureau may create a system where a financial institution reports only the postal address and the Bureau provides the financial institution with the census tract, county, MSA or MD, and State. As discussed above, if the Bureau is not able to achieve these operational changes, the Bureau may not elect to finalize the proposal to collect postal address, but likely would finalize the proposal to continue to collect the currently required property location information (census tract, county, MSA or MD, and State).

In addition, the Bureau understands that this potential operational change raises questions. Such questions include whether a financial institution would be responsible for the accuracy of the information provided by the Bureau and whether a financial institution would be responsible for geocoding an entry if the Bureau's geocoding system returned an error. The Bureau solicits feedback on whether such an operational change would alleviate burden and on whether such an operational change is appropriate generally.

During the Small Business Review Panel, small entity representatives discussed the potential operational change related to geocoding.[337] Small entity representatives generally supported the idea of shifting some of the burden of geocoding to the Bureau or other Federal agencies. Several small entity representatives stated that geocoding was not problematic for them. Some small entity representatives shared their thoughts on the type of loans or properties that present challenges in geocoding, including open-end lines of credit, new construction properties, and rural properties. One small entity representative stated that geocoding is the largest source of its reporting errors. Small entity representatives also raised questions about whether the financial institution or the Bureau would be responsible for errors if the Bureau geocoded the loans.[338] The Panel supported the Bureau's suggested operational changes related to geocoding.[339]

Covered Loans Related to Multiple Properties

Comments 4(a)(9)–1 and –2 clarify a financial institution's responsibilities when reporting a loan that relates to more than one property. Comment 4(a)(9)–1 discusses how to report a home improvement loan or a refinancing of a home improvement loan that relates to more than one property. Comment 4(a)(9)–2 discusses how to report a home purchase loan or a refinancing of a home purchase loan that relates to more than one property. In light of the Bureau's proposal to expand the types of transactions subject to Regulation C by including all mortgage loans secured by a dwelling (discussed above in the section-by-section analysis of proposed § 1003.2(d) and (o)), the Bureau believes that it may be appropriate to revise comments 4(a)(9)–1 and –2 to provide a single framework clarifying how to report a covered loan related to multiple properties.

Proposed comment 4(a)(9)–1 explains that if a covered loan relates to more than one property and only one property is taken as or, in the case of an application, proposed to be taken as security, a financial institution reports the information required by § 1003.4(a)(9) for the property taken as or, in the case of an application, proposed to be taken as security. The comment also provides an illustrative example.

Proposed comment 4(a)(9)–2 clarifies that if more than one property is taken or, in the case of an application, proposed to be taken as security for a single covered loan, a financial institution may report one of the properties using one entry on its loan application register or report all of the properties using multiple entries on its loan application register. Proposed comment 4(a)(9)–2 further explains that, if a financial institution opts to report all of the properties, the multiple entries should be identical with the exception of required information that is related to the property identified in § 1003.4(a)(9). If an institution is required to report specific information about the property identified in § 1003.4(a)(9), the institution should report the information that relates to the property identified in § 1003.4(a)(9) in that entry. The proposed comment provides an illustrative example.

[334] *See, e.g.,* Small Business Review Panel Report at 39.

[335] *Id.*

[336] *See* Section 1003.4(a)(9); HMDA section 304(a)(2). A for-profit mortgage-lending institution is deemed to have a branch office in an MSA or MD if in the preceding calendar year it received applications for, originated, or purchased five or more home purchases loans, home improvement loans, or refinancings related to property located in that MSA or MD, respectively. *See* Section 1003.2 (definition of branch office).

[337] *See* Small Business Review Panel Report at 34.

[338] *See id.*

[339] *See id.*

Proposed comment 4(a)(9)–3 discusses reporting multifamily properties with more than one postal address. The proposed comment explains that for the purposes of § 1003.4(a)(9), a financial institution reports the information required by § 1003.4(a)(9) for a multifamily dwelling with more than one postal address in the same manner described in proposed comment 4(a)(9)–2. The proposed comment also explains that regardless of whether the financial institution elects to report the covered loan using a single entry or multiple entries, the information required by § 1003.4(a)(31) and (32) should refer to the total number of applicable units in the property or properties securing or, in the case of an application, proposed to secure the covered loan. The Bureau solicits feedback on whether the proposed comments are appropriate generally.

The Bureau is also proposing to renumber current comments 4(a)(9)–3 and –4 as proposed comments 4(a)(9)–4 and –5, respectively, and to make certain technical changes to align the comments with proposed § 1003.4(a)(9). In accordance with the changes discussed above, the Bureau proposes technical instructions in appendix A regarding how to enter the data on the loan application register.

4(a)(10)(i)

Ethnicity, Race, and Sex

HMDA section 304(b)(4) requires the reporting of racial characteristics and gender for borrowers and applicants.[340] Section 1003.4(a)(10) of Regulation C requires a financial institution to collect the ethnicity, race, and sex of the applicant or borrower for applications and loan originations for each calendar year. The Bureau's proposal renumbers § 1003.4(a)(10) and moves the requirement to collect the ethnicity, race, and sex of the applicant or borrower to § 1003.4(a)(10)(i). The new numbering is intended only for ease of reference and is not a substantive change.

The Bureau proposes to modify instruction I.D.1.b of appendix A, which requires that a financial institution use Code ''not applicable'' if the borrower or applicant is not a natural person, for example, a corporation or partnership. The Bureau provides this clarification in response to feedback from financial institutions expressing uncertainty as to whether a trust is a non-natural person. For a transaction involving a trust, the financial institution should report ''not applicable'' for the government monitoring information if the trust is the borrower or applicant. On the other hand, if the applicant or borrower is a natural person, and is the beneficiary of a trust, the financial institution should collect the government monitoring information pursuant to § 1003.4(a)(10)(i).

As part of the Bureau's efforts to streamline and clarify Regulation C, the Bureau is also proposing several technical modifications to the appendix A instructions for applicant information. The Bureau believes these modifications will help financial institutions comply with Regulation C by providing clearer instructions for completion of the applicant information in the loan application register. The Bureau is proposing to remove I.D.2 of appendix A because the instructions are either found elsewhere in the I.D. instructions or are duplicative of instructions in appendix B. For example, instruction I.D.2 provides that all loan applications, including applications taken by mail, internet, or telephone must use a collection form similar to that shown in appendix B regarding ethnicity, race, and sex. This instruction further provides that for applications taken by telephone, the information in the collection form must be stated orally by the lender, except for information that pertains uniquely to applications taken in writing. These instructions are also found in appendix B. The Bureau does not believe these instructions should appear twice and thus is proposing to remove the instructions from appendix A.

In addition, the Bureau is proposing to remove the I.D.2 instruction that provides if the applicant does not provide these data in an application taken by mail or telephone or on the internet, enter the Code for ''information not provided by applicant in mail, internet, or telephone application'' specified in paragraphs I.D.3., 4., and 5. of this appendix. As the instruction itself points out, paragraphs I.D.3., 4., and 5. of appendix A instruct a financial institution to enter the Code for ''information not provided by applicant in mail, internet, or telephone application'' and the Bureau does not believe there is a need to repeat that instruction in I.D.2. Therefore, the Bureau is proposing to remove this instruction from I.D.2 and is proposing to modify paragraph I.D.4. by adding a new subparagraph ''b,'' redesignated as 4(a)(10)(i)–2.b, which would instruct financial institutions to ''Use Code 3 (for ethnicity) and Code 6 (for race) if the applicant or co-applicant does not provide the information in an application taken by mail, internet, or telephone'' and is proposing to modify paragraph I.D.5. by adding a new subparagraph ''a,'' redesignated as 4(a)(10)(i)–3.a, which would instruct financial institutions to use ''Use Code 3 if the applicant or co-applicant does not provide the information in an application taken by mail, internet, or telephone.''

As part of the Bureau's efforts to streamline and clarify Regulation C, the Bureau is proposing to renumber current instructions I.D.3, I.D.4, and I.D.5. The instructions are renumbered as 4(a)(10)(i)–1, 4(a)(10)(i)–2, and 4(a)(10)(i)–3. In line with the proposed renumbering to appendix A, the Bureau is proposing to renumber comments 4(a)(10)–1, 4(a)(10)–2, 4(a)(10)–3, 4(a)(10)–4, and 4(a)(10)–5. The comments are renumbered as comments 4(a)(10)(i)–1, 4(a)(10)(i)–2, 4(a)(10)(i)–3, 4(a)(10)(i)–4, and 4(a)(10)(i)–5.

Appendix B provides instructions on the collection of the ethnicity, race, and sex of applicants. Appendix B instructs financial institutions to inform applicants that the Federal government requests the information in order to monitor compliance with Federal statutes that prohibit lenders from discriminating against applicants on these bases. Appendix B also provides that financial institutions must ask for the information but cannot require applicants to provide it. Questions requesting the government monitoring information can be listed on the loan application form or on a separate form that refers to the application, and appendix B provides a sample form. Financial institutions must offer an applicant the option of selecting one or more racial designations. For telephone applications, the information in the collection form must be stated orally by the financial institution. When an application is taken in person and the applicant does not provide the information, the financial institution is instructed to note this on the form, inform the applicant that it is required to collect the information based on visual observation and surname, and

[340] 12 U.S.C. 2803(b)(4). The collection and reporting of this information was not a part of HMDA as originally enacted in 1975. *See supra* note 36. Originally, HMDA required lenders to collect and report data only on loan originations and only according to census tract and income. *See* Former 12 U.S.C. 2803(a)(1)–(a)(2) (1988). In order to help identify lending discrimination and enforce antidiscrimination laws, Congress amended HMDA to require the collection and reporting of the racial characteristics, gender, and income of loan applicants and borrowers (FIRREA). *See supra* note 58. In 2002, the Board amended Regulation C to improve the quality, consistency, and usefulness of the data being collected by financial institutions, including adding ethnicity as a new field for collection of information about an applicant. *See supra* note 75.

then collect it on that basis to the extent possible. In a mail, telephone, or internet application, the government monitoring information need not be provided if the applicant declines to answer the questions requesting the information or fails to provide the information. In such a case, the financial institution should indicate that the application was received by mail, telephone, or internet, if that fact is not otherwise evident on the face of the application.

Feedback provided during the Board's 2010 Hearings addressed the reluctance of applicants to provide demographic information and the challenges financial institutions face in collecting the information.[341] The Bureau solicits feedback regarding the challenges faced by both applicants and financial institutions by the data collection instructions prescribed in appendix B and specifically solicits comment on ways to improve the data collection of the ethnicity, race, and sex of applicants and borrowers.

During the Small Business Review Panel process, one small entity representative urged the Bureau to eliminate the requirement to record government monitoring information for in-person applications when the customer declines to specify the information.[342] The small entity representative noted that while the government monitoring information data are vital to HMDA's utility, recording the information on the basis of visual observation is highly subjective and puts financial institutions in the position of overriding the wishes of applicants who choose not to provide this information.[343] The small entity representative also stated that staff at the financial institution spend an average of three hours following up with loan officers when these data are not reported in the files.[344] While the Small Business Review Panel did not make a recommendation in response to these comments, as discussed above, the Bureau is aware that there may be ways to improve the collection of the government monitoring information and specifically solicits feedback on this issue.

Age

Section 1094(3)(A)(i) of the Dodd-Frank Act amended HMDA section 304(b)(4) to require financial institutions to report an applicant's or borrower's age.[345] For the reasons discussed below, the Bureau is proposing to implement the requirement to collect and report age by adding this characteristic to the information listed in proposed § 1003.4(a)(10)(i).

The MISMO/ULDD data standards for age include both the date of birth (YYYY–MM–DD format) and the age of the borrower in years at the time of application.[346] In light of potential applicant and borrower privacy concerns related to reporting date of birth, the Bureau proposes that financial institutions enter the age of the applicant or borrower, as of the date of application, in number of years as derived from the date of birth as shown on the application form.[347] The Bureau's Regulation B requires, as part of the application for credit, a creditor to request the age of an applicant for credit primarily for the purchase or refinancing of a dwelling occupied or to be occupied by the applicant as a principal dwelling, where the credit will be secured by the dwelling.[348] The proposed requirement would align with the MISMO/ULDD data standard for age as well as with the definition of age under Regulation B. The Bureau solicits feedback regarding whether the collection of the age of the applicant or borrower, as of the date of application, in number of years as derived from the date of birth as shown on the application form is an appropriate manner of collecting such demographic information. The Bureau specifically solicits feedback regarding whether there is a less burdensome way for financial institutions to collect such information for purposes of HMDA.

During the Small Business Review Panel process, the small entity representatives generally expressed concern about the burden of reporting additional borrower data with respect to age.[349] Some small entity representatives recommended that the Bureau further clarify the age data point.[350] In particular, some small entity representatives noted that the date of birth of an applicant is already collected on application forms, but converting it to age would require additional work and increase the possibility of errors.[351] Some small entity representatives suggested that the Bureau clarify at which point in the mortgage loan process age would be determined.[352] One small entity representative suggested that the applicant's age at the time of application be reported.[353] The Bureau's proposed comments and proposed instructions in appendix A provide clarity as to how a financial institution collects and reports age.

A requirement to collect and report the age of applicants or borrowers may impose some burden on financial institutions. However, the Bureau believes that the potential costs would be justified by the potential benefits to the public and public officials, and the Bureau believes that reporting of this information is an appropriate method of implementing HMDA section 304(b)(4) and carrying out HMDA's purposes. The Bureau believes this information will assist in identifying whether financial institutions are serving the housing needs of their communities, identifying possible discriminatory lending patterns, and enforcing antidiscrimination statutes.

Proposed instruction 4(a)(10)(i)–4 in appendix A provides technical instructions regarding how to enter the age of the applicant or borrower on the loan application register. Proposed instruction 4(a)(10)(i)–4 directs financial institutions to enter the age of the applicant or borrower, as of the date of

[341] *E.g.,* Atlanta Hearing, *supra* note 131; San Francisco Hearing, *supra* note 133; Chicago Hearing, *supra* note 137.

[342] *See* Small Business Review Panel Report at 28.

[343] *Id.*

[344] *Id.*

[345] 12 U.S.C. 2803(b)(4).

[346] *See* Version 3.3 of the MISMO Residential Reference Model (Construction Method Type and Financed Unit Count), Fannie Mae, *Fannie Mae Implementation Guide for Loan Delivery Data,* Appendix A (Oct. 29, 2013) (*https://www.fanniemae.com/content/technology_requirements/uldd-implementation-guide-appendix-a.pdf*), Freddie Mac, *Freddie Mac Implementation Guide for Loan Delivery Data,* Appendix A (Jan. 29, 2014) (*http://www.freddiemac.com/singlefamily/sell/docs/FRE_IG_selling_system_appendix_a_data_requirements.pdf.*

[347] See part II.C above for a discussion of the Bureau's approach to protecting applicant and borrower privacy in light of the goals of HMDA.

[348] Regulation B § 1002.13(a)(1)(iv). Age has been a protected category under ECOA and Regulation B since 1976, and a creditor may not discriminate against an applicant on the basis of age regarding any aspect of a credit transaction, including home mortgage lending. *See* Regulation B §§ 1002.1(b), 1002.4(a)(b), 15 U.S.C. 1691(a)(1). Under Regulation B, ''age'' refers ''only to the age of natural persons and means the number of fully elapsed years from the date of an applicant's birth.'' Regulation B § 1002.2(d).

[349] *See* Small Business Review Panel Report at 27 and 40. The Dodd-Frank amendments to HMDA added new provisions directing the Bureau to develop regulations that ''modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public,'' and identified age as a new data point that may raise privacy concerns. HMDA sections 304(h)(1)(E), (h)(3)(A)(ii). See part II.C above for a discussion of the feedback the Bureau received from the small entity representatives about privacy concerns relating to this proposed data point and the Bureau's approach to protecting applicant and borrower privacy in light of the goals of HMDA.

[350] *See* Small Business Review Panel Report at 27.

[351] *Id.*

[352] *Id.*

[353] *Id.*

application, in number of years as derived from the date of birth as shown on the application form. The Bureau recognizes that this proposed instruction would require financial institutions to calculate the age of an applicant or borrower in number of years by referring to the date of birth as shown on the application form and that such calculation has the potential for errors. However, the Bureau believes the application forms used by financial institutions, such as the Uniform Residential Loan Application form,[354] currently collect the date of birth of the applicant and any co-applicant and that requiring the calculation of age from this existing data source is not a significant burden. The Bureau believes that financial institutions will have to manage the risk of an error in calculating an applicant's age to ensure HMDA compliance.

Similar to the existing technical instructions applicable to the ethnicity, race, and sex of an applicant or borrower, proposed instruction 4(a)(10)(i)–4 directs financial institutions to enter ''not applicable'' for age only when the applicant or co-applicant is not a natural person or when applicant or co-applicant information is unavailable because the covered loan has been purchased by the institution. In addition, similar to the existing instructions applicable to the ethnicity, race, and sex of an applicant or borrower, proposed instruction 4(a)(10)(i)–4 directs financial institutions to provide the age only for the first co-applicant listed on the application form when there is more than one co-applicant, and if there are no co-applicants or co-borrowers, to report ''no co-applicant'' in the co-applicant column.

Proposed comment 4(a)(10)(i)–1 discusses the requirement that a financial institution report the age of the applicant or borrower, as of the date of application, in number of years as derived from the date of birth as shown on the application form and provides an illustrative example. Proposed comment 4(a)(10)(i)–2 clarifies that a financial institution reports the age of the applicant or borrower, as of the date of application, in number of years as derived from the date of birth as shown on the application form and does not report age on the basis of visual observation or surname as is required with respect to the ethnicity, race, and sex of an applicant when the applicant fails to provide the requested information for an application taken in person. The Bureau also is proposing technical modifications to comments 4(a)(10)(i)–3, 4(a)(10)(i)–4, and 4(a)(10)(i)–5.

4(a)(10)(ii)

HMDA section 304(b)(4) requires the reporting of income level for borrowers and applicants. Section 1003.4(a)(10) of Regulation C implements this requirement by requiring collection and reporting of the gross annual income relied on in processing the application for applicants and borrowers. The proposal moves this requirement to § 1003.4(a)(10)(ii) and revises it to require the reporting of gross annual income relied on in making the credit decision requiring consideration of income or, if a credit decision requiring consideration of income was not made, the gross annual income collected as part of the application process. The Bureau has received feedback that the current income reporting requirement is confusing and unclear, and the new language is intended to facilitate compliance by clarifying and providing more specificity on when income is to be reported and what income should be reported.

The proposal revises the instructions in appendix A to be consistent with proposed § 1003.4(a)(10)(ii) and to provide additional guidance. Instruction 4(a)(10)(ii)–1 provides that the financial institution should report the gross annual income that it relied on in making the credit decision requiring consideration of income or, if the application was denied or withdrawn or the file was closed for incompleteness before a credit decision requiring consideration of income was made, the gross annual income collected as part of the application process. Instruction 4(a)(10)(ii)–1.a provides, consistent with the current instructions, that all dollar amounts should be rounded to the nearest thousand and shown in thousands. Instruction 4(a)(10)(ii)–1.b provides, consistent with the current instructions, that an institution would report ''NA'' for a covered loan or application related to a multifamily dwelling. Instruction 4(a)(10)(ii)–1.c provides that if no income information is collected as part of the application process, or if the covered loan applied for would not or did not require consideration of income, the institution would report ''NA.'' Instruction 4(a)(10)(ii)–1.d provides that if the applicant or co-applicant is not a natural person, or if the applicant or co-applicant information is unavailable because the covered loan has been purchased by the institution, the institution would report ''NA.''

The proposal revises and renumbers existing comments, and adds new comments. Specifically, the proposal renumbers current comments 4(a)(10)–6, –7, and –8 as comments 4(a)(10)(ii)–1, –2, and –3 and revises them clarification and to make minor wording changes. The proposal adds new comment 4(a)(10)(ii)–4, which provides that amounts derived from asset depletion or annuitization to determine repayment ability are not part of gross annual income relied on for purposes of § 1003.4(a)(10)(ii). The proposal also adds new comment 4(a)(10)(ii)–5, which provides an example of reporting income information collected as part of the application process if the application is denied or withdrawn or the file is closed for incompleteness before a credit decision requiring consideration of income is made. The example provides that a financial institution would report the income collected if an applicant withdraws an application before a credit decision requiring consideration of income is made, or if an institution denied such an application or closed the file for incompleteness.

The proposal renumbers existing comment 4(a)(10)–6 as new comment 4(a)(10)(ii)–1 and revises it to make technical corrections and minor wording changes, and to provide an additional example of income relied on. The additional example provides that if an institution applied lender or investor guidelines to exclude commission income earned for less than 12 months, the institution would not include that income in the income reported. The Bureau understands that financial institutions frequently apply lender or investor guidelines when calculating income for purposes of making a credit decision. For example, the GSEs and the FHA have guidelines for determining and verifying borrower income for loans that financial institutions intend to sell to or insure with those entities.[355] The MISMO/ULDD data standard for borrower qualifying income also refers to application of borrower or investor guidelines.[356] The example better aligns

[354] Fannie Mae Form 1003 or Freddie Mac Form 65 7/05 (rev. 6/09).

[355] Fannie Mae, *Fannie Mae Single Family Selling Guide* § B3–3.1, (June 24, 2014) *available at http://www.fanniemae.com/content/guide/sel062414.pdf*; Freddie Mac, *Freddie Mac Single Family Selling Guide* § 37.13, (June 24, 2014) *available at http://www.freddiemac.com/singlefamily/guide/bulletins/pdf/062414Guide.pdf*; HUD, *HUD Handbook 4155.1* § 4.D.4.a, *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/4155.1*.

[356] *See* MISMO, *Version 3.3 of the MISMO Residential Reference Model* (Total Monthly Income Amount and Borrower Qualifying Income); Fannie Mae, *Fannie Mae Implementation Guide for Loan*

Continued

the proposed § 1003.4(a)(10)(ii) reporting requirement with these commonly used industry data standards. The Bureau solicits feedback on whether financial institutions believe there are any discrepancies between income that would be recorded under the MISMO/ULDD data standard and the income reported for HMDA purposes under proposed § 1003.4(a)(10)(ii) and if additional guidance or clarification is needed.

The proposal adds new comment 4(a)(10)(ii)–6, which provides guidance on credit decisions requiring consideration of income and credit decisions that did not or would not have required consideration of income. The comment provides that an institution does not report income if the application did not or would not have required a credit decision requiring consideration of income under the policies and practices of the financial institution and provides an example of a streamlined refinance program. Small entity representatives raised concerns about compliance difficulties where certain programs that do not require analysis or verification of borrower income are involved.[357] The Bureau believes this comment may address these concerns and facilitate compliance.

During the Small Business Review Panel process, small entity representatives noted difficulties in reporting income relied on for certain loans, especially commercial loans because of technical differences between income and cash flow.[358] The Small Business Review Panel recommended that the Bureau consider clarifying requirements to report the income relied upon for commercial loans. Consistent with the recommendation of the Small Business Review Panel, the Bureau has considered whether additional guidance can be provided for reporting income relied on for commercial purpose loans. The Bureau notes that under the proposal, income would not be reported for loans or applications related to multifamily dwellings, loans or applications where the applicant or borrower is not a natural person (such as a corporation), where no income information is collected, or where a credit decision requiring consideration of income was not or would not have been required. Therefore, the Bureau believes that these reporting difficulties for income should be limited only to covered loans to natural persons for properties with less than five individual units where institutions ask for and rely on income for underwriting purposes. The Bureau believes that more specific feedback on this subset of covered loans and applications is necessary in order to consider developing appropriate guidance on this topic. Therefore, the Bureau solicits feedback on difficulties financial institutions experience in reporting income relied on for covered loans and applications not related to multifamily dwellings that are made to individual applicants or borrowers for a commercial purpose. Specifically, the Bureau solicits feedback on how consideration of income differs for such loans from consumer- or household purpose-loans, and on how financial institutions distinguish between income and cash flow analysis and whether financial institutions have different procedures for considering them.

4(a)(11)

Current § 1003.4(a)(11) requires financial institutions to report the type of entity purchasing a loan that the financial institution originates or purchases and then sells within the same calendar year, and provides that this information need not be included in quarterly updates.[359] In conjunction with the Bureau's proposal to require quarterly data reporting by certain financial institutions as described further below in the section-by-section analysis of proposed § 1003.5(a)(1)(ii), the Bureau is proposing to modify § 1003.4(a)(11) by deleting the statement that the information about the type of purchaser need not be included in quarterly updates.

The Bureau is proposing technical modifications to current comments 4(a)(11)–1 and 4(a)(11)–2. The Bureau is also proposing to add six new comments to provide additional guidance regarding the type of purchaser reporting requirement. Additional guidance on this topic had been published in the FFIEC FAQs.[360] The Bureau believes it is appropriate to place this additional guidance in the commentary to Regulation C to assist financial institutions with HMDA compliance. Proposed comment 4(a)(11)–3 clarifies when a financial institution should report the code for ''affiliate institution'' by providing a definition of the term ''affiliate'' and clarifies that for purposes of proposed § 1003.4(a)(11), the term ''affiliate'' means any company that controls, is controlled by, or is under common control with, another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*). Proposed comment 4(a)(11)–4 incorporates, with modifications, an FFIEC FAQ that clarified when a financial institution would report the code for ''private securitization'' and provides an illustrative example. Proposed comment 4(a)(11)–5 incorporates, with modifications, an FFIEC FAQ that clarified the meaning of a mortgage bank for purposes of § 1003.4(a)(11). Proposed comment 4(a)(11)–6 incorporates, with modifications, an FFIEC FAQ that clarified the type of purchaser to report when a covered loan is sold to a subsidiary of the seller institution. Proposed comment 4(a)(11)–7 incorporates, with modifications, an FFIEC FAQ that clarified the type of purchaser to report when the purchasing entity is a bank holding company or thrift holding company. Proposed comment 4(a)(11)–8 directs financial institutions to refer to proposed comment 4(a)–6 regarding reporting requirements when a covered loan is repurchased by the originating financial institution. The Bureau solicits feedback regarding whether these proposed comments are appropriate and specifically solicits feedback regarding whether additional clarifications would assist financial institutions in complying with proposed § 1003.4(a)(11).

The Bureau is proposing to modify the instructions in appendix A to ensure that they align with the proposed comments as well as with the Bureau's proposal to require quarterly data reporting by certain financial institutions pursuant to § 1003.5(a)(1)(ii), including the type of purchaser information. In addition to technical modifications and removing a parenthetical stating that the information need not be included in quarterly updates, the Bureau is proposing to modify instruction I.E.b in appendix A, to be renumbered as 4(a)(11)–1.b, to provide that for purposes of recording the type of purchaser within 30 calendar days after the end of the calendar quarter pursuant to proposed § 1003.4(f), a financial institution should record Code 0 if the institution originated or purchased a covered loan and did not sell it during

Delivery Data, Appendix A (Oct. 29, 2013), *https://www.fanniemae.com/content/technology_requirements/uldd-implementation-guide-appendix-a.pdf*; Freddie Mac, *Freddie Mac Implementation Guide for Loan Delivery Data,* Appendix A (Jan. 29, 2014), *http://www.freddiemac.com/singlefamily/sell/docs/FRE_IG_selling_system_appendix_a_data_requirements.pdf.*

[357] *See* Small Business Review Panel Report at 51, 83.

[358] *See* Small Business Review Panel Report at 28, 60.

[359] 12 U.S.C. 2803(h)(1)(C).

[360] *See* FFIEC FAQs.

the calendar quarter for which the institution is recording the data. If the financial institution sells the covered loan in a subsequent quarter of the same calendar year, the institution should record the appropriate code for the type of purchaser on its loan application register for the quarter in which the covered loan was sold.

The Bureau is also proposing to provide clarification as to when a financial institution should report Code 5 for ''private securitization'' in proposed instruction 4(a)(11)–1.d, in order to align with proposed comment 4(a)(11)–4. In addition, in order to align with proposed comment 4(a)(11)–3, the Bureau is proposing to provide clarification as to when a financial institution should report Code 8 for ''affiliate institution'' in proposed instruction 4(a)(11)–1.e by providing a definition of the term ''affiliate'' for purposes of § 1003.4(a)(11). The Bureau solicits feedback regarding whether the proposed modifications to the instructions in appendix A are appropriate.

4(a)(12)

Regulation C currently requires financial institutions to report the difference between a loan's APR and the average prime offer rate (APOR) for a comparable transaction, as of the date the interest rate is set, if the difference equals or exceeds 1.5 percentage points for first-lien loans, or 3.5 percentage points for subordinate-lien loans. The average prime offer rate is an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms offered to borrowers by a representative sample of creditors for mortgage loans with low risk pricing characteristics and is published weekly on the FFIEC Web site. Loans that require rate spread reporting are termed ''higher-priced mortgage loans.'' The Board added the rate spread requirement in 2002, and amended it in 2008, intending to capture price information for only the subprime market.[361] Section 304(b)(5)(B) of HMDA requires financial institutions to report mortgage loan information, grouped according to measurements of ''the difference between the annual percentage rate associated with the loan and a benchmark rate or rates for all loans.'' [362] The Bureau proposes to implement this provision by requiring financial institutions to report, for covered loans subject to Regulation Z, 12 CFR part 1026, other than purchased loans and reverse mortgage transactions, the difference between the covered loan's annual percentage rate and the average prime offer rate for a comparable transaction as of the date the interest rate is set.

In amending HMDA to require financial institutions to report the difference between the annual percentage rate associated with the loan and a benchmark rate or rates for all loans, Congress found that improved pricing information would bring greater transparency to the market and facilitate the enforcement of fair lending laws.[363] Feedback received during the Board's 2010 Hearings suggested that requiring reporting of the rate spread for all loans, instead of only for loans considered higher-priced mortgages, would better serve HMDA's purposes by providing a more complete understanding of the mortgage market and improving the analysis of loan prices across various communities and markets.[364] For example, a 2009 GAO report found that the lack of pricing information limited the ability of Federal agencies to ''assess the potential for discrimination in the prime and government-guaranteed and -insured mortgage markets.'' [365] Similarly, recent enforcement actions by the U.S. Department of Justice indicate that price discrimination can occur at levels that fall below the threshold for higher-priced mortgage loans.[366] Thus, expanded pricing data could reveal greater detail about the extent to which prime lending is available and competitive in all communities.

Proposed § 1003.4(a)(12) implements HMDA section 304(b)(5)(B) by requiring financial institutions to report the difference between the covered loan's annual percentage rate and the average prime offer rate for a comparable transaction as of the date the interest rate is set. Pursuant to HMDA section 305(a), the Bureau implements section 304(b)(5)(B) as applicable only to loans subject to the Truth in Lending Act (TILA), as implemented by Regulation Z. By aligning the scope of the rate spread provision to transactions subject to Regulation Z, the Bureau excepts certain types of loans for which rate spread data would be potentially misleading or unduly burdensome to report, such as business-purpose loans. The Bureau also proposes to exempt reporting of rate spread date for purchased loans, as appendix A currently does for rate-spread data on higher-priced loans, in order to reduce burden.

The Bureau believes that requiring rate spread reporting only for loans subject to TILA, as implemented by Regulation Z, is necessary and proper to effectuate HMDA's purposes by improving the utility of HMDA data and facilitating compliance by easing reporting burdens. During the Small Business Review Panel process, for example, one small entity representative commented that requiring the rate spread for commercial loans would be difficult because these loans do not have an APR and would require an APR substitute.[367] Furthermore, the Bureau believes that burden will be reduced because most financial institutions are already calculating the difference between APR and APOR in order to determine compliance with the high-cost, higher-priced, and qualified mortgage provisions that apply to loans that are subject to Regulation Z.[368] Regulation Z § 1026.32(a)(1)(i) and the associated commentary, for example, already provide guidance on determining the correct closest comparable transaction for determining whether home-equity lines of credit are high-cost mortgages. The Bureau solicits feedback on the general utility of the revised rate spread data and on the costs associated with collecting and reporting the data. In particular, the Bureau solicits feedback on the scope of the rate spread reporting requirement, including whether the requirement should be expanded to cover purchased loans.

During the Small Business Review Panel process, the small entity representatives offered differing opinions on the burden of adding the pricing data points under consideration.

[361] *See* 67 FR 7222, 7229 (Feb. 15, 2002) (adopting thresholds of 3 percentage points for first-lien loans and 5 percentage points for subordinate-lien loans); 73 FR 63329, 63330, (Oct. 24, 2008) (revising the thresholds to 1.5 percentage points for first-lien loans and 3.5 percentage points for subordinate-lien loans).

[362] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended HMDA by adding section 304(b)(5)(B), which expanded the rate spread reporting requirement beyond higher-priced mortgage loans.

[363] H.R. Rep. No. 111–702, at 191 (2011).

[364] *See* Atlanta Hearing, *supra* note 131; Chicago Hearing, *supra* note 137; *see also* Neil Bhutta and Glenn B. Canner, *Mortgage Market Conditions and Borrower Outcomes: Evidence from the 2012 HMDA Data and Matched HMDA-Credit Record Data,* 99 Fed. Reserve Bulletin 1, at 31–32 (2013) (noting that gaps in the rate spread data limit its current usefulness for assessing fair lending compliance).

[365] GAO, *Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts,* GAO–09–704, at 18 (July 2009), *http://www.gao.gov/new.items/d09704.pdf.*

[366] *See* Complaint, United States v. First United Security Bank, (S.D. Ala., Sept. 30, 2009), No. 09–0644 *available at http://www.justice.gov/crt/about/hce/documents/fusbcomp.pdf;* San Francisco Hearing, *supra* note 133.

[367] *See* Small Business Review Panel Report at 126.

[368] *See* Regulation Z §§ 1026.32, 1026.35, 1026.43.

The Small Business Review Panel recommended that the Bureau seek comment in the proposed rule on the costs to small financial institutions of providing the pricing data and consider aligning the requirements of Regulation C to the pricing data used in other Federal and State mortgage disclosures.[369] Rate spread is not included on Federal or State closing disclosures, but the Bureau is soliciting feedback on the cost to small financial institutions.

The proposed rule moves parts of appendix A to supplement I, modifies the existing commentary, and adds several clarifying comments. Current comment 4(a)(12)(ii)–2 is incorporated into proposed comment 4(a)(12)–4. Proposed comment 4(a)(12)–2, which substantially incorporates current comment 4(a)(12)(ii)–3, clarifies that the Bureau publishes on the FFIEC's Web site (*http://www.ffiec.gov/hmda*), in tables entitled ''Average Prime Offer Rates-Fixed'' and ''Average Prime Offer Rates-Adjustable,'' current and historic average prime offer rates for a wide variety of closed-end transaction types. The Bureau calculates an annual percentage rate, consistent with Regulation Z, for each transaction type for which pricing terms are available from the survey described in comment 4(a)(12)–1. The Bureau uses loan pricing terms available in the survey and other information to estimate annual percentage rates for other types of transactions for which direct survey data are not available. The Bureau publishes on the FFIEC's Web site the methodology it uses to arrive at these estimates. Proposed comment 4(a)(12)–2 explains that a financial institution may either use the average prime offer rates published by the Bureau or may determine average prime offer rates itself by employing the methodology published on the FFIEC Web site. A financial institution that determines average prime offer rates itself, however, is responsible for correctly determining the rates in accordance with the published methodology.

Proposed comment 4(a)(12)–3 clarifies that the requirements of this part refer to the covered loan's annual percentage rate. A financial institution complies with § 1003.4(a)(12)(i) by relying on the annual percentage rate for the covered loan, as calculated and disclosed pursuant to Regulation Z § 1026.18 (closed-end credit transactions) or 1026.40 (open-end credit plans) as applicable.

Proposed comment 4(a)(12)–4 discusses the fact that the rate spread calculation in § 1003.4(a)(12)(i) is defined by reference to a comparable transaction, which is determined according to the covered loan's amortization type (*i.e.,* fixed- or variable-rate) and loan term. For open-end covered loans, § 1003.4(a)(12)(i) requires a financial institution to identify the most closely comparable closed-end transaction. The tables of average prime offer rates published by the Bureau (*see* comment 4(a)(12)–2) provide additional detail about how to identify the comparable transaction. Proposed comment 4(a)(12)–4.i clarifies that for fixed-rate covered loans, the term for identifying the comparable transaction is the transaction's maturity (*i.e.,* the period until the last payment will be due under the loan contract or open-end credit agreement). If an open-end credit plan has a fixed rate but no definite plan length, a financial institution complies with § 1003.4(a)(12)(i) by using a 30-year fixed-rate loan as the most closely comparable closed-end transaction. Financial institutions may refer to the table on the FFIEC Web site entitled ''Average Prime Offer Rates-Fixed'' when identifying a comparable fixed-rate transaction.

Proposed comment 4(a)(12)–4.ii clarifies that for variable-rate covered loans, the term for identifying the comparable transaction is the initial, fixed-rate period (*i.e.,* the period until the first scheduled rate adjustment). For example, five years is the relevant term for a variable-rate transaction with a five-year, fixed-rate introductory period that is amortized over thirty years. Financial institutions may refer to the table on the FFIEC Web site entitled ''Average Prime Offer Rates-Variable'' when identifying a comparable variable-rate transaction. If an open-end credit plan has a variable rate and an optional, fixed-rate feature, a financial institution uses the rate table for variable-rate transactions.

Proposed comment 4(a)(12)–4.iii explains that when a covered loan's term to maturity (or, for a variable-rate transaction, the initial fixed-rate period) is not in whole years, the financial institution uses the number of whole years closest to the actual loan term or, if the actual loan term is exactly halfway between two whole years, by using the shorter loan term. For example, for a loan term of ten years and three months, the relevant term is ten years; for a loan term of ten years and nine months, the relevant term is 11 years; for a loan term of ten years and six months, the relevant term is ten years. If a loan term includes an odd number of days, in addition to an odd number of months, the financial institution rounds to the nearest whole month, or rounds down if the number of odd days is exactly halfway between two months. The financial institution rounds to one year any covered loan with a term shorter than six months, including variable-rate covered loans with no initial, fixed-rate periods. For example, if an open-end covered loan has a rate that varies according to an index plus a margin, with no introductory, fixed-rate period, the transaction term is one year.

Proposed comment 4(a)(12)–4.iv clarifies that if the amortization period of a covered loan is longer than the term of the transaction to maturity, § 1003.4(a)(12)(i) requires a financial institution to use the loan term to determine the applicable average prime offer rate. For example, assume a financial institution originates a closed-end, fixed-rate loan that has a term to maturity of five years and a thirty-year amortization period that results in a balloon payment. The financial institution complies with § 1003.4(a)(12)(i) by using the five-year loan term.

Proposed comment 4(a)(12)–5 clarifies that the relevant date to use to determine the average prime offer rate for a comparable transaction is the date on which the covered loan's interest rate was set by the financial institution for the final time before closing or account opening. This proposed comment also contains several illustrative examples. Proposed comment 4(a)(12)–5.i explains that if an interest rate is set pursuant to a ''lock-in'' agreement between the financial institution and the borrower, then the date on which the agreement fixes the interest rate is the date the rate was set. Except as provided in comment 4(a)(12)–4.iii, if a rate is reset after a lock-in agreement is executed (for example, because the borrower exercises a float-down option or the agreement expires), then the relevant date is the date the financial institution exercises discretion in setting the rate for the final time before closing or account opening. The same rule applies when a rate-lock agreement is extended and the rate is reset at the same rate, regardless of whether market rates have increased, decreased, or remained the same since the initial rate was set. If no lock-in agreement is executed, then the relevant date is the date on which the institution sets the rate for the final time before closing or account opening.

Proposed comment 4(a)(12)–5.ii clarifies that if a financial institution issues a rate-lock commitment under one loan program, the borrower subsequently changes to another program that is subject to different

[369] *See* Small Business Review Panel Report at 42.

pricing terms, and the financial institution changes the rate promised to the borrower under the rate-lock commitment accordingly, the rate-set date is the date of the program change. However, if the financial institution changes the promised rate to the rate that would have been available to the borrower under the new program on the date of the original rate-lock commitment, then that is the date the rate is set, provided the financial institution consistently follows that practice in all such cases or the original rate-lock agreement so provided. The comment contains several illustrative examples.

Proposed comment 4(a)(12)–5.iii clarifies that when a financial institution has reporting responsibility for a covered loan that it received from a broker, as discussed in comment 4(a)–4 (*e.g.,* because the financial institution makes a credit decision prior to closing or account opening), the rate-set date is the last date the financial institution set the rate with the broker, not the date the broker set the borrower's rate.

Proposed comment 4(a)(12)–6 explains that a financial institution is required to compare the covered loan's annual percentage rate to the most recently available average prime offer rate that was in effect for the comparable transaction as of the rate-set date. Proposed comment 4(a)(12)–6 also explains that ''most recently available'' means the average prime offer rate set forth in the applicable table with the most recent effective date as of the date the interest rate was set. However, § 1003.4(a)(12)(i) does not permit a financial institution to use an average prime offer rate before its effective date.

Proposed instruction 4(a)(12) in appendix A provides technical instructions regarding how to enter rate spread data on the loan application register. Proposed instruction 4(a)(12)–1 provides technical instructions for entering the rate spread. Proposed instruction 4(a)(12)–2 provides that a financial institution completing the loan application register must enter ''NA'' for a loan not subject to Regulation Z, 12 CFR part 1026, a reverse mortgage, a loan that the financial institution purchased or assumed, or an application that does not result in a loan origination or the opening of a line of credit, except for applications that have been approved but not accepted by the applicant.

4(a)(13)

Regulation C currently requires financial institutions to report whether a loan is subject to HOEPA, as implemented by Regulation Z § 1026.32.[370] The Board found that information concerning the HOEPA status of a loan would produce more useful data about the mortgage market, particularly the subprime market. For the reasons discussed below, the Bureau proposes to require financial institutions to report whether the loan is a high-cost mortgage because its APR exceeds HOEPA's APR threshold or because its points and fees exceed the threshold for HOEPA coverage.

Information regarding the high-cost mortgage status of a loan has been essential to understanding changes in the mortgage market, particularly the subprime market, and to assessing fair lending concerns related to loan pricing. Currently, financial institutions must report only whether a loan is or is not a high-cost mortgage. The Bureau has received feedback suggesting that information regarding the reason for a loan's HOEPA status—whether the loan is considered a high-cost mortgage because of annual percentage rate, points and fees, or both—might improve the usefulness of the HMDA data.[371] For example, a loan might be flagged as a HOEPA loan despite having a low APR, raising questions about the other characteristics—such as points and fees—of the loan. Similarly, an expanded HOEPA flag could enable greater insight into which specific triggers are most prevalent among high-cost mortgages.

The Bureau believes that the burden of the expanded HOEPA status reporting requirement will be lessened by the fact that financial institutions will likely have to determine which, if any, of the high-cost mortgage triggers are satisfied in order to comply with Regulation Z § 1026.32. But the Bureau also recognizes that the level of complexity proposed above is not currently present in either Regulation C or the MISMO definition of the HOEPA status indicator as used in the ULDD. Despite the potential increased burden described above, feedback received pursuant to the Bureau's outreach activities indicates that a HOEPA status data point that describes the HOEPA status trigger may be justified. Accordingly, the Bureau proposes to modify § 1003.4(a)(13) and the technical instructions to § 1003.4(a)(13) contained in appendix A to provide that a financial institution shall report, for covered loans subject to the Home Ownership and Equity Protection Act of 1994, whether the covered loan is a high-cost mortgage under Regulation Z § 1026.32(a), and the reason that the covered loan qualifies as a high-cost mortgage, if applicable. The Bureau seeks comment regarding the general utility of the modified data and on the costs associated with reporting the data.

Proposed instruction 4(a)(13) in appendix A provides technical instructions regarding how to enter the high-cost mortgage data on the loan application register. Proposed instruction 4(a)(13)–1 provides that a financial institution must use one of four codes to indicate a loan's HOEPA status: Code 1 if the annual percentage rate exceeds the high-cost mortgage thresholds; Code 2 if the points and fees exceed the high-cost mortgage thresholds; Code 3 if both the annual percentage rate and the points and fees for the transaction exceed the high-cost mortgage thresholds; and Code 4 for all other cases, such as for applications that do not result in originations or loans not subject to the HOEPA.

The changes to § 1003.4(a)(13) are proposed pursuant to the Bureau's authority under sections 305(a) and 304(b)(5)(D) of HMDA. The Bureau believes these reporting requirements are necessary to carry out the purposes of HMDA. The mortgage market has changed significantly since HMDA was enacted and since the Board required the reporting of additional loan pricing data in 2002, and it continues to evolve. For the reasons given above, the proposal will improve the usefulness and continued utility of HMDA data and help the public and public officials assess whether financial institutions are serving the housing needs of their communities.

4(a)(14)

Current § 1003.4(a)(14) requires financial institutions to report the lien status of the loan or application (first lien, subordinate lien, or not secured by a lien on a dwelling). The technical instructions in current appendix A provide that, for loans that a financial institution originates and for applications that do not result in an origination, a financial institution shall report the lien status as one of the following: Secured by a first lien, secured by a subordinate lien, not secured by a lien, or not applicable (purchased loan).

The Board first promulgated the lien status requirement in 2002 because, among other reasons, ''[d]ata on lien

[370] Section 1003.4(a)(13).

[371] The 2013 HOEPA Final Rule provides for a prepayment penalty coverage test in addition to the APR and points-and-fees coverage tests. *See* 78 FR 6855 (Jan. 31, 2013). However, because the rule prohibits prepayment penalties for high-cost mortgages, the Bureau's proposed modifications to § 1003.4(a)(13) omits prepayment penalty from the list of possible high-cost mortgage triggers provided in appendix A.

status may help explain some pricing disparities, because interest rates, and therefore APRs, vary according to lien status. Rates on first-lien loans are generally lower than rates on subordinate-lien or unsecured loans.'' [372] The Bureau agrees with the Board's reasoning and believes that data on lien status furthers HMDA's purpose of assisting in understanding loan pricing to identify possible discriminatory lending patterns. Pursuant to the Bureau's authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau proposes to modify § 1003.4(a)(14) to require reporting of the priority of the lien against the subject property that secures or would secure the loan. The proposal removes the current exclusion of reporting lien status on purchased loans.

Other than amending the reporting requirement related to the lien status on purchased loans, the proposal is substantially similar to the current requirement with modifications to conform to the MISMO data standard. As discussed in part II.B above, the Bureau believes that HMDA compliance and data submission can be made easier by aligning the requirements of Regulation C, to the extent practicable, to existing industry standards for collecting and transmitting mortgage data. In furtherance of this proposed alignment, the Bureau determined that a similar definition for lien status exists in MISMO, which specifies the priority of the lien against the subject property and provides for the following enumerations: First lien, second lien, third lien, fourth lien, and other. The ''other'' enumeration is designed to capture the priority of the lien against the subject property beyond a fourth lien, for example, a fifth lien or sixth lien.

Given that loan terms, including loan pricing, vary based on lien status, and in light of the Bureau's proposal to require reporting of certain pricing data for purchased loans, such as the interest rate, the Bureau believes that requiring financial institutions to report the lien status of purchased loans would further enhance the utility of HMDA data overall. The liquidity provided by the secondary market is a critical component of the modern mortgage market, and information about the types of loans being purchased in a particular area, and the pricing terms associated with those purchased loans, is needed to understand whether the housing needs of communities are being fulfilled. This information is particularly important in many communities where neighborhood revitalization and affordable housing efforts depend on the liquidity provided by purchasers of mortgage loans. Thus, by requiring additional information on subordinate lien lending, the Bureau believes that this proposal would ensure that the public and public officials are provided with sufficient information to enable them to determine whether financial institutions are fulfilling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. Furthermore, local and State housing finance agency programs facilitate the mortgage market for low- to moderate-income borrowers, often by offering programs to purchase or insure loans originated by a private institution. Since the HMDA data reported by financial institutions does not include the lien status of purchased loans, it is difficult to determine the pricing characteristics of the private secondary market. Lien status information on purchased loans would help public entities, such as local and State housing finance agencies, understand how to complement the liquidity provided by the secondary market in certain communities, thereby maximizing the effectiveness of such public programs. Thus, the Bureau believes that requiring that such data be reported would assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment. Additionally, providing lien status information to purchasers is standard industry practice and is supported by MISMO. For these reasons, the Bureau believes that data on the lien status of purchased loans will further the purposes of HMDA.

Modifying the current reporting requirement in § 1003.4(a)(14) will enhance data collected under Regulation C and facilitate compliance by better aligning the data collected with industry practice. Based on these considerations, pursuant to the Bureau's authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing to modify § 1003.4(a)(14) to provide that a financial institution shall report the priority of the lien against the property identified under § 1003.4(a)(9), and is also proposing to require reporting of this information for purchased loans. The Bureau solicits feedback regarding whether this proposed modification is appropriate generally, and specifically solicits feedback regarding the potential burdens that may result from this proposal to align with the industry data standard. The Bureau also solicits feedback regarding whether alignment with the MISMO industry standard would benefit any other business operations of a financial institution.

As discussed in the section-by-section analysis of § 1003.4(a), during the Small Business Review Panel process, the small entity representatives' feedback on adopting an industry data standard depended on whether the small entity representative sells loans in the secondary market, or whether their Loan Origination System vendor's system is aligned with industry data standards.[373] The Small Business Review Panel recommended that the Bureau seek comment in the proposed rule from small financial institutions about whether they, or their vendors, use MISMO-compliant data definitions and standards, and the potential effect on small financial institutions of alignment of the HMDA data requirements with MISMO data standards.[374] Consistent with the Small Business Review Panel's recommendations, the Bureau solicits feedback on these issues.

The Bureau is proposing to modify the technical instruction in appendix A regarding how to enter lien status on the loan application register. Like the current instruction, proposed instruction 4(a)(14)–1 directs financial institutions to enter the priority of the lien against the property by entering the applicable code from a list. Proposed instruction 4(a)(14)–1 modifies the current instruction in four ways. First, the Bureau proposes to remove the current instruction for reporting ''not applicable'' for purchased loans and proposes instruction 4(a)(14)–1.a, which requires that the priority of the lien against the property be entered not only for covered loans that a financial institution originates and for applications that do not result in an origination, but also for covered loans purchased. Second, in an effort to align with the industry data standard, proposed instruction 4(a)(14)–1 directs financial institutions to enter whether the priority of the lien against the property is a first lien, second lien, third lien, fourth lien, or other. Third, as discussed above, the Bureau proposes to modify Regulation C to require reporting only of dwelling-secured transactions and proposes to remove reporting of unsecured home improvement loans. As such, the current option to enter ''not secured by a lien'' would no longer be applicable, and the Bureau proposes to delete it. Fourth, proposed instruction 4(a)(14)–1.b requires financial institutions to enter Code 5 for ''other''

[372] 67 FR 43218, 43220 (June 27, 2002).

[373] *See* Small Business Review Panel Report at 42.

[374] *Id.* at 43.

when the priority of the lien against the property is other than one identified in Codes 1 through 4 (for example, secured by a fifth lien or sixth lien).

The Bureau believes that its proposed modification to the current reporting requirement under § 1003.4(a)(14) is appropriate to align with the industry data standard. However, the Bureau recognizes the potential burdens that may result from requiring financial institutions to report the lien status of the property as a third lien, fourth lien, or other lien. The Bureau solicits feedback regarding whether the Bureau should maintain the current reporting requirement (secured by a first lien or subordinate lien) modified to conform to the proposed removal of unsecured home improvement loans, or whether financial institutions prefer to report the actual priority of the lien against the property (secured by a first lien, second lien, third lien, fourth lien, or other). The Bureau also recognizes that requiring the reporting of lien status for purchased loans may impose some potential burdens on financial institutions. However, the Bureau believes that such information is evident on the face of the loan documents and as such the information may be readily available to financial institutions. The Bureau believes that the potential benefits to the public and public officials, as discussed above, justify potential burdens. The Bureau solicits feedback on the general utility of lien status data on purchased loans and on the unique costs and burdens associated with collecting and reporting the data that financial institutions may face as a result of the proposal.

In order to conform the commentary on lien status to the proposed requirement to report the priority of the lien, the Bureau is proposing technical modifications to comment 4(a)(14)–1. In addition, comment 4(a)(14)–1 is amended to provide guidance on reporting lien status for purchased loans; it explains that, for covered loans purchased by a financial institution, lien status is determined by reference to the best information readily available to the financial institution at the time of purchase. Comment 4(a)(14)–1 is also amended to provide additional guidance on reporting lien status for applications that do not result in originations. The amended comment explains that if an application does not result in an origination and the best information readily available to the financial institution at the time final action is taken indicates that there is a mortgage on the property that would not have been paid off as part of the transaction, but the financial institution is not able to determine, based on the best information readily available to it, the exact lien priority of the loan applied for, the financial institution complies with proposed § 1003.4(a)(14) by reporting that the property would have been secured by a second lien.

As discussed in the section-by-section analysis of proposed § 1003.4(a)(9) and in proposed comment 4(a)(9)–2, if more than one property is taken, or in the case of an application, proposed to be taken as security for a single covered loan or application, a financial institution may report one of the properties in a single entry on its loan application register or report all of the properties using multiple entries on its loan application register. Regardless of whether a financial institution elects to report the transaction in one entry or more than one entry, the information required by proposed § 1003.4(a)(14) should relate to the property identified under paragraph 4(a)(9). The Bureau proposes to add new comment 4(a)(14)–2 which directs financial institutions to refer to proposed comment 4(a)(9)–2 regarding transactions involving multiple properties and clarifies that a financial institution complies with § 1003.4(a)(14) by reporting lien status in a manner consistent with the property reported under § 1003.4(a)(9).

4(a)(15)

Although credit scores are often a critically important factor in underwriting and pricing loans, neither HMDA nor Regulation C historically has required reporting of information relating to an applicant's or borrower's credit score. Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA to require financial institutions to report ''the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe.'' [375] The Bureau is proposing to add new § 1003.4(a)(15) to implement this requirement.[376]

Except for purchased covered loans, proposed § 1003.4(a)(15)(i) requires financial institutions to report the credit score or scores relied on in making the credit decision and the name and version of the scoring model used to generate each credit score. The Bureau believes this interpretation of HMDA section 304(b)(6)(I) is reasonable because the name and version of the scoring model are necessary to understand any credit scores that would be reported, as different models are associated with different scoring ranges and some models may even have different ranges depending on the version used.[377] This proposal is also authorized by HMDA sections 305(a) and 304(b)(6)(J), and is necessary and proper to effectuate the purposes of HMDA, because, among other reasons, it facilitates accurate analyses of whether financial institutions are serving the housing needs of their communities by providing adequate home financing to qualified applicants.

The Bureau believes that financial institutions that rely on credit scores in making credit decisions will be able to easily identify the credit score or scores they have relied on in making the credit decision and the name and version of the scoring model used to generate each credit score. However, to facilitate compliance pursuant to HMDA section 305(a), the Bureau has excluded purchased covered loans from the requirements of proposed § 1003.4(a)(15)(i) because the Bureau anticipates that it could be burdensome for financial institutions that purchase loans to identify the credit score or scores relied on in making the underlying credit decision and the name and version of the scoring model used to generate each credit score. The Bureau solicits feedback on whether this exception is appropriate.

As an alternative to requiring the scoring model name and version, the Bureau is considering requiring financial institutions to indicate the range of possible scores for the scoring model used. However, the Bureau is concerned that the significance of a particular score may vary depending on the model or version used even for models and versions that have identical ranges. The Bureau invites comment on whether it is appropriate to request the name and version of the scoring model and whether the Bureau should require any other related information to assist in interpreting credit score data, such as the date on which the credit score was created.

The Bureau is proposing in § 1003.4(a)(15)(ii) to interpret ''credit score'' to have the same meaning as in section 609(f)(2)(A) of the Fair Credit

[375] 12 U.S.C. 2803(b)(6)(I).

[376] The Dodd-Frank amendments to HMDA added new provisions directing the Bureau to develop regulations that ''modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public,'' and identified credit score as a new data point that may raise privacy concerns. HMDA sections 304(h)(1)(E), (h)(3)(A)(i). See part II.C above for discussion of the Bureau's approach to protecting applicant and borrower privacy in light of the goals of HMDA.

[377] For example, the range for VantageScore 3.0 scores is 300 to 850, but earlier VantageScore models have a range of 501 to 990. *See* VantageScore, *How the Scores Range, http://your.vantagescore.com/interpret_scores.*

Reporting Act (FCRA), 15 U.S.C. 1681g(f)(2)(A). The Dodd-Frank Act amendments to HMDA do not provide a definition of ''credit score.'' To provide clarity, proposed § 1003.4(a)(15)(ii) incorporates by reference the definition in FCRA section 609(f)(2)(A), which is the only definition of ''credit score'' that appears in the FCRA or Regulation V. This definition applies for purposes of the credit score disclosure requirements in FCRA sections 609(f) and 615 and is incorporated by reference into the Bureau's risk-based pricing rule by Regulation V § 1022.71(*l*). FCRA section 609(f)(2)(A) provides:

The term ''credit score''—

(i) Means a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default (and the numerical value or the categorization derived from such analysis may also be referred to as a ''risk predictor'' or ''risk score''); and

(ii) does not include—

(I) Any mortgage score or rating of an automated underwriting system that considers one or more factors in addition to credit information, including the loan to value ratio, the amount of down payment, or the financial assets of a consumer; or

(II) any other elements of the underwriting process or underwriting decision.

The Bureau believes that FCRA section 609(f)(2)(A) provides a reasonable definition of ''credit score'' that is broadly familiar to financial institutions that are already subject to FCRA and Regulation V requirements. Alternatively, the Bureau could define ''credit score'' based on the Regulation B definitions of ''credit scoring system'' or ''empirically derived, demonstrably and statistically sound, credit scoring system.'' [378] Another alternative would be to interpret credit score to mean the probability of default, using a concept similar to the probability of default metric that the FDIC uses in determining assessment rates for large and highly complex insured depository institutions.[379] The Bureau believes that the FCRA section 609(f)(2)(A) definition is the most appropriate because it provides a general purpose definition that is familiar to industry, but the Bureau solicits feedback on whether Regulation C should instead use a different definition of ''credit score.''

Proposed comment 4(a)(15)–1 explains that a financial institution relies on a credit score in making the credit decision if the credit score was a factor in the credit decision even if it was not a dispositive factor. For example, if a credit score is one of multiple factors in a financial institution's credit decision, the financial institution has relied on the credit score even if the financial institution denies the application because one or more underwriting requirements other than the credit score are not satisfied.

Proposed comment 4(a)(15)–2 addresses circumstances where a financial institution obtains or creates multiple credit scores for a single applicant or borrower. It explains that, when a financial institution obtains or creates two or more credit scores for a single applicant or borrower but relies on only one score in making the credit decision, the financial institution complies with proposed § 1003.4(a)(15) by reporting that credit score and information about the scoring model used. For example, a financial institution that relies on the middle of the scores reported would report the middle score, and a financial institution that relies on the average of all of the scores reported would report the average score.

Proposed comment 4(a)(15)–2 also addresses circumstances in which a financial institution relies on multiple scores for the applicant or borrower in making the credit decision. It explains that in such circumstances proposed § 1003.4(a)(15) requires the institution to report one of the credit scores for the borrower or applicant that was relied on in making the credit decision. In choosing which credit score to report in this circumstance, a financial institution need not use the same approach for its entire HMDA submission but should be generally consistent. For example, a financial institution could routinely use one approach within a particular division of the institution or for a category of covered loans. The proposed comment also indicates that in instances such as these, the financial institution should report the name and version of the credit scoring model for the score reported.

Proposed comment 4(a)(15)–3 addresses situations involving credit scores for multiple applicants or borrowers. In a transaction involving two or more applicants or borrowers for which the financial institution relies on a single credit score in making the credit decision for the transaction, the institution complies with proposed § 1003.4(a)(15) by reporting that credit score. Otherwise, a financial institution complies with proposed § 1003.4(a)(15) by reporting a credit score for the applicant or borrower that it relied on in making the credit decision, if any, and a credit score for the first co-applicant or co-borrower that it relied on in making the credit decision, if any. To illustrate, assume a transaction involves one applicant and one co-applicant and that the financial institution obtains or creates two credit scores for the applicant and two credit scores for the co-applicant. Assume further that the financial institution relies on the lowest, highest, most recent, or average of all of the credit scores obtained or created to make the credit decision for the transaction. The financial institution would comply with proposed § 1003.4(a)(15) by reporting that credit score. Alternatively, assume a transaction involves one applicant and one co-applicant and that the financial institution obtains or creates three credit scores for the applicant and three credit scores for the co-applicant. Assume further that the financial institution relies on the middle credit score for the applicant and the middle credit score for the co-applicant to make the credit decision for the transaction. The financial institution would comply with proposed § 1003.4(a)(15) by reporting both the middle score for the applicant and the middle score for the co-applicant.

The Bureau believes that the approach described above for transactions involving multiple credit scores and multiple applicants or borrowers would limit the number of credit scores that financial institutions would need to report (at most two credit scores per application or covered loan), while ensuring that financial institutions provide meaningful credit score information. The Bureau invites comment on whether proposed § 1003.4(a)(15) and its associated commentary provide an appropriate approach to handling situations involving multiple credit scores and multiple applicants or borrowers.

Proposed comment 4(a)(15)–4 clarifies that the financial institution complies with § 1003.4(a)(15) by reporting not

[378] According to Regulation B, a credit scoring system is ''a system that evaluates an applicant's creditworthiness mechanically, based on key attributes of the applicant and aspects of the transaction, and that determines, alone or in conjunction with an evaluation of additional information about the applicant, whether an applicant is deemed creditworthy.'' Regulation B § 1002.2(p)(1). The four-part definition of an ''empirically derived, demonstrably and statistically sound, credit scoring system'' in Regulation B § 1002.2(p)(1) establishes the criteria that a credit system must meet in order to use age as a predictive factor. Regulation B comment 2(p)–1.

[379] FDIC Assessments, Large Bank Pricing, 77 FR 66000 (Oct. 31, 2012).

applicable if a file was closed for incompleteness or the application was withdrawn before a credit decision was made. It also clarifies that a financial institution complies with § 1003.4(a)(15) by reporting not applicable if it makes a credit decision without relying on a credit score for the applicant or borrower.

In appendix A, proposed instruction 4(a)(15)–1 directs financial institutions to enter the credit scores relied on in making the credit decision into column ''A'' for the applicant or borrower and, where required by Regulation C, into column ''CA'' for the first co-applicant or co-borrower. Where a financial institution is required to report a single score for the transaction that corresponds to multiple applicants or borrowers, proposed instruction 4(a)(15)–1 directs the financial institution to use column ''A.''

Proposed instruction 4(a)(15)–2 provides the codes that financial institutions would use for each credit score reported to indicate the name and version of the scoring model used to generate the credit score relied on in making the credit decision, using column ''A'' and column ''CA'' as applicable. These include codes for the following models: Equifax Beacon 5.0, Experian Fair Isaac, FICO Risk Score Classic 04, FICO Risk Score Classic 98, VantageScore 2.0, and VantageScore 3.0. They also include a code to use if more than one credit scoring model was used in developing the credit score, as well as a code for any other credit scoring model that is not listed, a code for purchased loans, and a code for use if the financial institution did not rely on a credit score in making the credit decision or if a file was closed for incompleteness or an application was withdrawn before a credit decision was made. If the credit scoring model is one that is not listed, proposed instruction 4(a)(15)–2.b instructs the financial institution to provide the name and version of the scoring model used in a free-form text field. The Bureau invites comment on whether these codes and the fields described above are appropriate for reporting credit score data and on any alternative approaches that might be used for reporting this information.

4(a)(16)

Section 1003.4(c)(1) currently permits optional reporting of the reasons for denial of a loan application. However, certain financial institutions supervised by the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) are required by those agencies to report denial reasons on their HMDA loan application registers.[380] For the reasons discussed below, the Bureau is proposing to require all financial institutions subject to HMDA reporting to report the reasons for denial of a loan application.

In general, the Bureau believes that the statistical value of optionally reported data is lessened because of the lack of standardization across all HMDA reporters. In addition, the reasons an application is denied are critical to understanding the financial institution's credit decision and to screen for potential violations of antidiscrimination laws, such as ECOA and the Fair Housing Act.[381] The Bureau has received feedback suggesting that requiring the collection of the reasons for denial of an application would improve the usefulness of HMDA data.[382] Denial reasons are important for a variety of purposes including, for example, assisting examiners in their reviews of denial disparities and underwriting exceptions.

Requiring the collection of the reasons for denial may facilitate more efficient, and less burdensome, fair lending examinations by the Bureau and other financial regulatory agencies, thereby furthering HMDA's purpose of assisting in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. Furthermore, as discussed above, certain financial institutions supervised by the OCC and the FDIC are required by those agencies to report denial reasons.[383] For these reasons, pursuant to its authority under HMDA sections 305(a) and 304(b)(6)(J), the Bureau proposes to require all financial institutions to report reasons for denial of an application. The Bureau believes this information is necessary to carry out HMDA's purposes, because it will provide more consistent and meaningful data, which will assist in identifying whether financial institutions are serving the housing needs of their communities, as well as assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

During the Small Business Review Panel process, a number of small entity representatives noted that a financial institution may have several reasons for denying a loan, which could complicate reporting.[384] Some small entity representatives expressed concern about mandatory reporting of denial reasons, particularly where there are multiple reasons for a denial.[385] In such instances, one small entity representative was concerned that the HMDA loan application register may not provide the full picture, while another noted that manual entry of the reasons would be required.[386] Another small entity representative suggested an ''other'' category if financial institutions are required to report denial reasons.[387] In addition, one small entity representative supported reporting of denial reasons, citing its importance for fair lending analysis.[388] While the Small Business Review Panel did not make a recommendation in light of these comments, the Bureau solicits feedback on these issues.

Proposed instruction 4(a)(16) in appendix A provides technical instructions regarding how to enter the denial reason data on the loan application register. Proposed instruction 4(a)(16)–1 provides that a financial institution must indicate the principal reason(s) for denial, indicating up to three reasons. The proposed instruction modifies the current instruction in three ways. First, the proposed instruction clarifies that a financial institution must list the ''principal'' reasons for denial. Second, the Bureau is proposing a free-form text field for denial reasons other than those provided in appendix A to account for the variety of reasons that may exist and to improve the utility of the ''Other'' data. The Bureau explains in proposed instruction 4(a)(16)–2 that, when a financial institution denies an application for a principal reason not included on the list of denial reasons in appendix A, an institution enters the corresponding code for ''Other'' and enters the principal denial reason(s). Financial institutions would no longer simply enter the corresponding code for ''Other'' on the loan application register if the reason for denial is not provided on the list but also would be required to enter the principal denial reason(s) in the free-form text field. Third, the proposed instruction adds a code for ''not applicable'' and explains in proposed instruction 4(a)(16)–3 that this code should be used by a financial

[380] 12 CFR 27.3(a)(1)(i), 128.6, 390.147.

[381] 15 U.S.C. 1691 *et seq.;* 42 U.S.C. 3601 *et seq.* Many financial institutions opt not to report denial reasons under current Regulation C. However, ECOA and Regulation B require all financial institutions to provide applicants the reasons for denial, or a notice of their right to receive those denial reasons, and to maintain records of compliance. *See* Regulation B §§ 1002.9 and 1002.12, 15 U.S.C. 1691(d).

[382] *E.g.,* San Francisco Hearing, *supra* note 133.

[383] *See supra* note 364.

[384] *See* Small Business Review Panel Report at 39.

[385] *Id.* at 26.

[386] *Id.*

[387] *Id.* at 26–7.

[388] *Id.* at 27.

institution if the action taken on the application was not a denial pursuant to § 1003.4(a)(8), such as if the application was withdrawn before a credit decision was made or the file was closed for incompleteness. Financial institutions would no longer leave this column blank on the loan application register but instead would enter the corresponding code for ''not applicable.''

The Bureau solicits feedback regarding whether the current codes in appendix A relating to reasons for denial (debt-to-income ratio, employment history, credit history, collateral, insufficient cash, unverifiable information, credit application incomplete, mortgage insurance denied, and other) should be modified. For example, the Bureau solicits feedback as to whether there are additional reasons for denying an application that are commonly used by financial institutions but are not present in the list of denial reasons. The Bureau also solicits feedback on the proposed requirement that a financial institution enter the principal denial reason(s) in the free-form text field when ''Other'' is entered in the loan application register.

The Bureau is proposing to renumber current instruction I.F.2 of appendix A as instruction 4(a)(16)–4. Proposed instruction 4(a)(16)–4 explains how a financial institution that uses the model form for adverse action contained in appendix C to Regulation B (Form C–1, Sample Notice of Action Taken and Statement of Reasons) should report the denial reasons for purposes of HMDA. Similar to proposed instruction 4(a)(16)–2 discussed above, proposed instruction 4(a)(16)–4 provides that, when a principal reason a financial institution denied the application is not provided on the list of denial reasons in the model form for adverse action contained in appendix C to Regulation B (Form C–1, Sample Notice of Action Taken and Statement of Reasons), financial institutions would no longer simply enter the corresponding code for ''Other'' on the loan application register but also would be required to enter the principal denial reason(s) in the free-form text field. The Bureau solicits feedback regarding whether modifications or clarifications would assist financial institutions in complying with the proposed requirement.

Proposed comment 4(a)(16)–1 clarifies that a financial institution complies with § 1003.4(a)(16) by reporting the principal reason(s) it denied the application, indicating up to three reasons. The proposed comment explains that the reasons reported must be specific and accurately describe the principal reasons the financial institution denied the application. The Bureau solicits feedback regarding whether additional clarifications would assist financial institutions in complying with the proposed requirement.

In order to align with proposed instructions 4(a)(16)–2 and –4, proposed comment 4(a)(16)–2 clarifies that, when a principal reason a financial institution denied the application is not provided on the list of denial reasons in appendix A, a financial institution complies with proposed § 1003.4(a)(16) by entering ''Other'' and reporting the principal reason(s) it denied the application. If an institution chooses to provide the applicant the reason(s) it denied the application using the model form contained in appendix C to Regulation B (Form C–1, Sample Notice of Action Taken and Statement of Reasons) or a similar form, the financial institution complies with proposed § 1003.4(a)(16) by entering the ''Other'' reason(s) that were specified on the form by the institution. If a financial institution chooses to provide the applicant a disclosure of the applicant's right to a statement of specific denial reasons using the model form contained in appendix C to Regulation B (Form C–5, Sample Disclosure of Right to Request Specific Reasons for Credit Denial) or a similar form, or chooses to provide the denial reason(s) orally under Regulation B § 1002.9(a)(2)(ii), the financial institution complies with proposed § 1003.4(a)(16) by entering the principal reason(s) it denied the application. The Bureau solicits feedback regarding whether additional clarifications would assist financial institutions in complying with the proposed requirement.

4(a)(17)

Section 304(b) of HMDA [389] requires reporting of ''the total points and fees payable at origination in connection with the mortgage as determined by the Bureau, taking into account 15 U.S.C. 1602(aa)(4).'' [390] The Bureau proposes to implement this provision by requiring financial institutions to report the total points and fees associated with certain mortgage loans.

In general, the term ''points and fees'' refers to costs associated with the origination of a mortgage loan. The Bureau proposes to define total points and fees by reference to TILA, as implemented by Regulation Z § 1026.32(b)(1) or (2). Section 1026.32(b)(1) defines ''points and fees'' for closed-end credit transactions. For a closed-end credit transaction, points and fees include all items included in the finance charge as specified under § 1026.4(a) and (b), with the exception of certain items specifically excluded under § 1026.32(b)(1)(i)(A) through (F). These excluded items include interest or time-price differential; government mortgage insurance premiums and funding fees; annual private mortgage insurance premiums; bona fide third-party charges not retained by the creditor, loan originator, or an affiliate; and certain bona fide discount points paid by the consumer. Section 1026.32(b)(1)(ii) through (vi) lists other items that are specifically included in points and fees, including compensation paid by a consumer or creditor to a loan originator; real estate-related charges; premiums for various forms of credit insurance; the maximum prepayment penalty that may be charged or collected under the terms of the mortgage loan; and the total prepayment penalty incurred by the consumer in a refinance transaction. Points and fees for open-end credit plans are defined in § 1026.32(b)(2). Section 1026.32(b)(2) generally includes all of the charges described above for closed-end transactions, with certain modifications and additions, such as the participation fees payable at or before account opening, and the charge, if any, to draw on the credit line.

The Bureau's 2013 HOEPA Final Rule and 2013 ATR Final Rule both limit the points and fees that lenders may charge when seeking to avoid HOEPA coverage or making a qualified mortgage, respectively.[391] The Bureau's 2013 HOEPA Final Rule provides that a transaction is a high-cost mortgage if, among other things, the transaction's points and fees exceed 5 percent of the total transaction amount or, for loans below $20,000, the lesser of 8 percent of the total transaction amount or $1,000 (with the dollar figures also adjusted annually for inflation). High-cost

[389] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA to provide for the reporting of total points and fees.

[390] 15 U.S.C. 1602(aa)(4) is part of TILA. Prior to amendments made by the Dodd-Frank Act, that section generally defined ''points and fees'' for the purpose of determining whether a transaction was a high-cost mortgage. *See* 15 U.S.C. 1602(aa)(4) (2006). Section 1100A of the Dodd Frank Act redesignated subsection 1602(aa)(4) as subsection 1602(bb)(4), where it is currently codified. In light of that redesignation, the Bureau interprets HMDA section 304(b) as directing it to take into account 15 U.S.C. 1602(bb)(4) and its implementing regulations, as those provisions address ''points and fees'' and because current subsection 1602(aa)(4) is no longer relevant to a determination regarding points and fees.

[391] *See* 78 FR 6856 (Jan. 31, 2013); 78 FR 6408 (Jan. 30, 2013).

mortgages are subject to special disclosure requirements and restrictions on loan terms, and borrowers in high-cost mortgages have enhanced remedies for violations of the law. The Bureau's 2013 ATR Final Rule generally precludes a loan from being considered a qualified mortgage if the points and fees paid by the borrower exceed 3 percent of the total loan amount. Qualified mortgages are entitled to a presumption that the creditor making the loan has satisfied Regulation Z's ability-to-repay requirements.

Proposed § 1003.4(a)(17) requires financial institutions to report points-and-fees data for covered loans or applications subject either to HOEPA or the Bureau's 2013 ATR Final Rule. The Bureau intends for loans ''subject to'' HOEPA to apply to consumer loans secured by the borrower's principal dwelling, except for transactions specifically excluded under § 1026.32(a)(2), such as reverse mortgages, construction loans, loans originated and financed by a State housing finance agency, and loans originated and financed through the USDA's direct loan program. Similarly, loans ''subject to'' the Bureau's 2013 ATR Final Rule include all consumer loans secured by a dwelling, including any real property attached to a dwelling, as defined in § 1026.2(a)(19), other than transactions exempt under § 1026.43(a), such as home-equity lines of credit, reverse mortgages, and temporary or bridge loans with terms of 12 months or less.[392] Together, the HOEPA and qualified-mortgage prongs of the proposed points-and-fees provision cover open-end credit plans secured by primary residences and nearly all dwelling-secured, closed-end mortgage loans.

Total points and fees are an important component of loan pricing. Excessive points and fees have been associated with originations of subprime loans and loans to vulnerable borrowers. Panelists at the Board's 2010 Hearings stated that collecting information regarding points and fees would improve the usefulness of the HMDA data for determining whether lenders are serving the housing needs of their communities.[393] As with other elements of loan pricing, greater information regarding points and fees will also enable deeper insight into the terms on which different communities are offered loans. For example, the Bureau has received feedback stating that borrowers in manufactured housing communities receive loans with higher prices than borrowers in other communities.

For the above reasons, to implement HMDA section 304(b)(5)(A), the Bureau is proposing § 1003.4(a)(17), which provides that, for covered loans or applications subject to the Home Ownership and Equity Protection Act of 1994 or covered loans or applications subject to Regulation Z § 1026.43(e)(2)(iii), other than purchased covered loans, financial institutions shall report the total points and fees payable in connection with the covered loan or application, expressed in dollars and calculated in accordance with Regulation Z § 1026.32(b)(1) or (2), as applicable. For the reasons given above, the Bureau interprets the Dodd-Frank Act's instruction to ''tak[e] into account'' the TILA's definition of points and fees as allowing for alignment between the relevant provisions of Regulation C and Regulation Z. Defining points and fees consistently across regulations will avoid confusion and reduce the burden of reporting.[394] This definition is also consistent with the MISMO version 3.3 data standard for total points and fees.

The Bureau solicits comment on the benefits and burdens of the definition of points and fees proposed above, as well as on any specific elements of points and fees to include or exclude. Although the Bureau believes that most financial institutions will have to calculate points and fees for purposes of both the qualified mortgage points-and-fees cap and the high-cost mortgage coverage threshold, it is possible that financial institutions that are certain of a loan's qualified mortgage or high-cost status may not calculate the total points and fees. Furthermore, some financial institutions that calculate the total points and fees might not store the information in a format readily available for HMDA purposes. To facilitate compliance, the Bureau is proposing to exclude covered loans that have been purchased by a financial institution from this reporting requirement because it does not believe that the total points and fees would be evident on the face of the documentation obtained from the seller, but the Bureau solicits feedback on whether to apply the points-and-fees reporting requirement to purchased covered loans.

During the Small Business Review Panel process, the small entity representatives expressed concern over the consistency and clarity of the points-and-fees definition.[395] The Small Business Review Panel recommended that the Bureau seek comment in the proposed rule on the costs to small financial institutions of providing the pricing data, and consider aligning the requirements of Regulation C to the pricing data used in other Federal and State mortgage disclosures as a way to reduce burden.[396] Consistent with the Small Business Review Panel's recommendation, the Bureau is proposing a definition of points and fees that aligns with the definition promulgated under the TILA. The Bureau also solicits feedback on the burden to small financial institutions.

Proposed instruction 4(a)(17) in appendix A provides technical instructions regarding how to enter points and fees data on the loan application register. Proposed instruction 4(a)(17)–1 provides technical instructions for entering the total points and fees payable in connection with the covered loan or application. Proposed instruction 4(a)(17)–2 provides that a financial institution completing the loan application register must enter ''NA'' for covered loans subject to this reporting requirement for which the total points and fees were not known at or before closing, or for covered loans not subject to this reporting requirement, such as purchased covered loans.

4(a)(18)

Currently, neither HMDA nor Regulation C requires financial institutions to report the total origination charges associated with a covered loan. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[397] For the reasons discussed below, the Bureau is proposing to require, for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), the total of all itemized amounts that are designated borrower-paid at or before closing, expressed in

[392] In addition to the Bureau, section 1412 of the Dodd-Frank Act directed the following agencies to prescribe qualified mortgage rules with respect to loans that they insure, guarantee, or administer: (1) the Department of Housing and Urban Development, with regard to mortgages insured under the National Housing Act; (2) the Department of Veterans Affairs, with regard to a loan made or guaranteed by the Secretary of Veterans Affairs; (3) the Department of Agriculture, with regard to loans guaranteed by the Secretary of Agriculture under 42 U.S.C. 1472(h); and (4) the Rural Housing Service, with regard to loans insured by the Rural Housing Service. The qualified mortgage prong of the proposed points-and-fees provision would not apply to qualified mortgage rules promulgated by these agencies. Certain loans subject to the qualified mortgage rules of the other agencies would, however, be covered under the HOEPA prong of the points-and-fees provision.

[393] *See* San Francisco Hearing, *supra* note 133.

[394] *See* Atlanta Hearing, *supra* note 131.

[395] *See* Small Business Review Panel Report at 30–31, 55, 102, 108–10, 128.

[396] *See id.* at 42.

[397] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

dollars, as disclosed pursuant to § 1026.38(f)(1).

Origination charges are costs that the borrower will pay to the creditor and any loan originator for originating and extending the credit. Specifically, for covered loans subject to the disclosure requirements of Regulation Z § 1026.19(f), origination charges are those costs designated ''borrower-paid'' on Line A of the Closing Cost Details page of the Closing Disclosure, as provided for in Regulation Z § 1026.38(f)(1). The Bureau established this definition of origination charges in its 2013 TILA–RESPA Final Rule, which will become effective on August 1, 2015.[398] These costs include charges such as application fees, origination fees, underwriting fees, processing fees, verification fees, and rate-lock fees, but do not include charges paid by the borrower for required services provided by persons other than the creditor or loan originator, or taxes or other government fees.

The Bureau proposes to require reporting of total origination charges, as provided in proposed § 1003.4(a)(18), because they provide a more complete picture of loan pricing. The price of a loan consists of several elements, including the loan terms, discount points and cash rebates, origination points or fees, and closing costs. As the total of all charges paid by the borrower, the proposed origination charges data point provides a measure of the amount of charges directly imposed on a borrower by a financial institution, and therefore discloses information about those charges over which a financial institution exercises the most control. According to feedback received by the Bureau, greater precision among the elements of loan pricing might provide public officials and community organizations with a better understanding of whether financial institutions are charging similar prices to similar applicants.

Furthermore, the Bureau has received feedback suggesting that the reporting burden would be lessened by consistency between HMDA data points and items on the Closing Disclosure, and thus has proposed the definition of origination charges already found in Regulation Z § 1026.38(f)(1).[399] The Small Business Review Panel recommended that the Bureau consider aligning the requirements of Regulation C to the pricing data used in other Federal and State mortgage disclosures.[400] Consistent with the Small Business Review Panel's recommendation, the Bureau is proposing a definition of total origination charges that aligns with the costs designated ''borrower-paid'' on Line A of the closing cost details page of the Closing Disclosure.

The Bureau recognizes that the utility of data on origination fees may have some limits. For example, reporting only borrower-paid origination charges will not directly provide data about the total cost of credit associated with a mortgage loan, because certain charges are excluded. Furthermore, by limiting the scope of this provision to covered loans that require closing disclosures, the Bureau acknowledges that the data will lack the total origination charges for loans excluded from Regulation Z § 1026.19(f), such as home-equity lines of credit and reverse mortgages.[401] The Bureau is also concerned with the burden that may result from requiring this information. For example, some financial institutions that calculate origination charges for purposes of the Closing Disclosure might not store the information in a format readily available for HMDA purposes.

Despite these concerns, feedback received in the Bureau's outreach activities suggests that the benefits to the public and to public officials would justify the costs imposed on industry, and the Bureau believes that reporting of origination costs, pursuant to proposed § 1003.4(a)(18), is necessary to carry out HMDA's purposes. For the reasons given, this information would provide a more complete and useful picture of loan pricing, which would assist public officials and members of the public in determining whether financial institutions are serving the housing needs of their communities and neighborhoods. As explained above, total origination charges would also assist in identifying potentially discriminatory lending patterns. Accordingly, pursuant to HMDA sections 305(a) and 304(b)(5)(D), the Bureau is proposing § 1003.4(a)(18), which provides that for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), a financial institution shall report the total of all itemized amounts that are designated borrower-paid at or before closing, expressed in dollars, as disclosed pursuant to § 1026.38(f)(1). The Bureau solicits feedback regarding the general utility of the revised data, the scope of the reporting requirement, and the costs associated with collecting and reporting the data. In particular, the Bureau solicits comment on whether a more comprehensive measure of the aggregate costs associated with the loan would be more appropriate, such as the amount listed as the ''total closing costs'' on Line J of the Closing Disclosure.

Proposed instruction 4(a)(18) in appendix A provides technical instructions regarding how to enter the data on the loan application register. Proposed instruction 4(a)(18)–1 provides technical instructions for entering the amount of the total origination charges. Proposed instruction 4(a)(18)–2 provides that a financial institution completing the loan application register must enter ''NA'' for covered loans for which no amounts paid by the borrower were known at or before closing, or for covered loans not subject to this reporting requirement, such as open-end lines of credit or reverse mortgages.

4(a)(19)

Currently, neither HMDA nor Regulation C requires financial institutions to report information regarding total discount points. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[402] For the reasons discussed below, the Bureau is proposing to require, for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), the points designated as paid to the creditor to reduce the interest rate, expressed in dollars, as described in § 1026.37(f)(1)(i).

Discount points are a type of prepaid interest that borrowers can pay to reduce the interest rate applicable to subsequent payments. For covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), the discount points that financial institutions would report are those listed on Line A.01 of the Closing Disclosure, as described in Regulation Z § 1026.37(f)(1)(i). The Bureau has received feedback suggesting that separate disclosure of discount points provides information useful for identifying potentially discriminatory lending patterns.[403] Specifically, information regarding the amount paid to reduce the interest rate, combined with information regarding total points and fees and total origination charges, enables researchers, regulators, and members of the public to develop a greater understanding of loan pricing. The annual percentage rate and interest rate cannot effectively be compared across borrowers without precise information on how discount points

[398] *See* 78 FR 79730 (Dec. 31, 2013).

[399] Chicago Hearing, *supra* note 137.

[400] *See* Small Business Review Panel Report at 42.

[401] *See* Regulation Z § 1026.19(f)(1)(i).

[402] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

[403] San Francisco Hearing, *supra* note 133.

have altered the rate. By examining the changes in the interest rate produced by the purchase of a given amount of discount points, members of the public and public officials can better determine the value that borrowers receive in exchange for discount points, and whether similarly situated borrowers are receiving similar value.

Furthermore, the Bureau has received feedback suggesting that the reporting burden would be lessened by consistency between HMDA data points and items on the Closing Disclosure, and thus has proposed the definition of discount points already found in Regulation Z § 1026.37(f)(1)(i).[404] The Small Business Review Panel recommended that the Bureau consider aligning the requirements of Regulation C to the pricing data used in other Federal and State mortgage disclosures.[405] Consistent with the Small Business Review Panel's recommendation, the Bureau is soliciting feedback on the costs of reporting to small entities, and is proposing that financial institutions report the discount points already required to be listed on Line A.01 of the Closing Disclosure. This definition is also consistent with the MISMO version 3.3 data standard for discount points.

As with other loan pricing data discussed above, discount point data do not include loan profitability, a data point that, according to feedback received at the Board's 2010 Hearings, might permit more detailed analysis of whether similarly situated borrowers are benefiting from similar pricing.[406] Furthermore, by limiting the scope of this provision to covered loans that require closing disclosures, the Bureau acknowledges that the data will lack the total discount points for loans excluded from Regulation Z § 1026.19(f), such as home-equity lines of credit and reverse mortgages.[407] The Bureau is also concerned with the burden that may result from requiring financial institutions to report discount points. As with other pricing information, some financial institutions that calculate total discount points for purposes of the Closing Disclosure might not store the information in a format readily available for HMDA purposes.

Despite these concerns, feedback received in the Bureau's outreach activities suggests that the benefits to the public and to public officials may justify these costs, and the Bureau believes that reporting of total discount points associated with a covered loan, pursuant to proposed § 1003.4(a)(19), is necessary to carry out HMDA's purposes. For the reasons given, this information would provide a more complete and useful picture of loan pricing, which would assist pubic officials and members of the public in determining whether financial institutions are serving the housing needs of their communities. Improved pricing information would also assist public officials and members of the public in identifying potentially discriminatory lending patterns. Accordingly, pursuant to HMDA sections 305(a) and 304(b)(5)(D), the Bureau is proposing § 1003.4(a)(19), which provides that for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), a financial institution shall report the points designated as paid to the creditor to reduce the interest rate, expressed in dollars, as described in § 1026.37(f)(1)(i). The Bureau solicits feedback regarding the general utility of the revised data, the scope of the proposed reporting requirement, and the costs associated with collecting and reporting the data. Specifically, the Bureau seeks comment on whether to include any lender credits, premiums, or rebates in the measure of discount points.

Proposed instruction 4(a)(19) in appendix A provides technical instructions regarding how to enter the data on the loan application register. Proposed instruction 4(a)(19)–1 provides technical instructions for entering the total amount of points designated as paid to the creditor to reduce the interest rate. Proposed instruction 4(a)(19)–2 provides that a financial institution completing the loan application register must enter ''NA'' for covered loans for which no points to reduce the interest rate were known at or before closing, or for covered loans not subject to this reporting requirement, such as open-end lines of credit or reverse mortgages.

4(a)(20)

Neither HMDA nor Regulation C currently requires financial institutions to report the pre-discounted, risk-adjusted interest rate associated with a covered loan. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[408] For the reasons discussed below, the Bureau is proposing to require reporting of, for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), other than purchased covered loans, the interest rate that the borrower would receive if the borrower paid no bona fide discount points, as calculated pursuant to Regulation Z § 1026.32.

The risk-adjusted, pre-discounted interest rate is the rate that the borrower would have received in the absence of any discount points or rebates. The rate the Bureau is proposing to require institutions to report under proposed § 1003.4(a)(20) is the same base rate from which a financial institution would exclude ''bona fide discount points'' from points and fees for purposes of determining qualified mortgage and high-cost mortgage status under Regulation Z. Regulation Z § 1026.32(b)(1)(i)(E) or (F) (closed-end loans), and § 1026.32(b)(2)(i)(E) or (F) (open-end credit plans), allows bona fide discount points to be excluded from the calculation of points and fees for both qualified mortgages and high-cost mortgages. Specifically, lenders may exclude up to two bona fide discount points from the points-and-fees calculation, depending on whether the ''interest rate without any discount'' is within one or two percentage points of the average prime offer rate. Under the proposal, financial institutions would report the risk-adjusted, pre-discounted interest rate not only for covered loans for which bona fide discount points have been excluded from total points and fees pursuant to Regulation Z § 1026.32(b), but for all covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), other than purchased covered loans.

The Bureau has received feedback suggesting that reporting the risk-adjusted, pre-discounted interest rate may be useful for fair lending purposes. The risk-adjusted, pre-discounted interest rate reflects loan-level price adjustments made on the basis of the characteristics of the borrower, collateral, and the current market conditions. Because these types of adjustments are typically based on reasonable business considerations, analyzing the changes to loan pricing that occur after a financial institution has determined the risk-adjusted, pre-discounted interest rate can provide significant evidence of potential impermissible discrimination. Thus, knowing the pre-discounted interest rate, along with the rate that the borrower actually received and any discount points paid, may assist in understanding the value that the borrower received, relative to otherwise similarly situated borrowers. Also, the risk-adjusted, pre-discounted rate may be used to more efficiently focus fair

[404] Atlanta Hearing, *supra* note 131.

[405] *See* Small Business Review Panel Report at 42.

[406] Atlanta Hearing, *supra* note 131.

[407] *See* Regulation Z § 1026.19(f)(1)(i).

[408] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

lending examinations, thereby reducing burden caused by false positives and conserving public resources.

However, by limiting the scope of this provision to covered loans that require closing disclosures, the Bureau acknowledges that the data will lack the risk-adjusted, pre-discounted interest rate for loans excluded from Regulation Z § 1026.19(f), such as home-equity lines of credit and reverse mortgages.[409] The Bureau is also concerned with the burden associated with reporting the risk-adjusted, pre-discounted interest rate. Some financial institutions may rarely exclude bona fide discount points from total points and fees pursuant to Regulation Z and may incur additional cost in calculating the risk-adjusted, pre-discounted interest for loans for which they would not make this calculation for purposes of compliance with Regulation Z. In addition, even financial institutions that calculate the rate for purposes of the qualified mortgage points-and-fees cap and the high-cost mortgage coverage threshold might not store the information in a format readily available for HMDA purposes.

Despite the potential reporting difficulties outlined above, the Bureau has received feedback in its outreach efforts that the benefits of reporting the risk-adjusted, pre-discounted interest rate may justify the costs, and the Bureau believes that reporting this information is necessary to carry out HMDA's purposes. For the reasons given, this information would provide a more complete and useful picture of loan pricing, which would be helpful in determining whether financial institutions are serving the housing needs of their communities. Improved pricing information would also significantly assist public officials and members of the public in identifying potentially discriminatory lending patterns.

Accordingly, pursuant to HMDA sections 305(a) and 304(b)(5)(D), the Bureau is proposing § 1003.4(a)(20), which provides that for covered loans subject to the disclosure requirements in Regulation Z § 1026.19(f), other than purchased covered loans, a financial institution shall report the interest rate that the borrower would receive if the borrower paid no bona fide discount points, as calculated pursuant to Regulation Z § 1026.32. To facilitate compliance, the Bureau is proposing to exclude covered loans that have been purchased by a financial institution from this reporting requirement because it does not believe that the risk-adjusted, pre-discounted interest rate would be evident on the face of the documentation obtained from the seller. The Bureau solicits feedback regarding the general utility of the revised data and on the costs associated with collecting and reporting the data. In particular, the Bureau seeks information on any additional costs that financial institutions or vendors expect to encounter in calculating the risk-adjusted, pre-discounted interest rate and in retaining these data specifically for HMDA reporting purposes, and any alternative means to calculate the base rate used in loan pricing that may be less burdensome for institutions to collect and report. The Bureau further solicits comment regarding the scope of the provision, particularly whether to restrict the reporting requirement to covered loans for which financial institutions have chosen to exclude bona fide discount points from total points and fees for the purposes of HOEPA coverage or qualified mortgage status.[410]

During the Small Business Review Panel process, the small entity representatives were generally concerned with the definitional clarity of, and the potential burden associated with, reporting the risk-adjusted, pre-discounted interest rate.[411] The Small Business Review Panel recommended that the Bureau seek comment in the proposed rule on the costs to small financial institutions of providing the pricing data, and consider aligning the requirements of Regulation C to the pricing data used in other Federal and State mortgage disclosures.[412] Consistent with the Small Business Review Panel's recommendation, the Bureau is soliciting feedback on the cost to small financial institutions.

Proposed instruction 4(a)(20) in appendix A provides technical instructions regarding how to enter the data on the loan application register. Proposed instruction 4(a)(20)–1 provides technical instructions for entering the risk-adjusted, pre-discounted interest rate. Proposed instruction 4(a)(20)–2 provides that a financial institution completing the loan application register must enter ''NA'' for covered loans not subject to this reporting requirement, such as purchased covered loans, open-end lines of credit, or reverse mortgages.

4(a)(21)

Neither HMDA nor Regulation C currently requires financial institutions to report the interest rate associated with a mortgage loan. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[413] For the reasons discussed below, the Bureau is proposing to require reporting of the interest rate that is or would be applicable to the covered loan at closing or account opening.

The Bureau has received feedback that data on the interest rate enables more effective comparison of pricing across borrowers. The interest rate provides pricing information separate from the elements of loan pricing, such as the rate spread,[414] and may alone enable preliminary comparison among borrowers or communities. Furthermore, when combined with the other elements of loan pricing, such as the total discount points paid and the risk-adjusted, pre-discounted interest rate, the interest rate permits greater insight into loan pricing. For example, comparing the interest rate to the risk-adjusted, pre-discounted interest rate can reveal the extent to which the rate has moved, and analyzing the interest rate in conjunction with the rate spread can permit a user of HMDA data to derive an approximation of the total cost associated with the loan. Therefore, reporting the interest rate may assist in identifying discriminatory lending patterns and in more precisely measuring the cost of credit available in particular communities.

Although the proposal may entail some burden, the burden will be reduced by the fact that financial institutions will already know the interest applicable to most loans. For example, financial institutions would have to disclose this rate in the loan terms section of the Closing Disclosure, as provided for under Regulation Z § 1026.38(b). The interest rate is also currently found in part I of the Uniform Residential Loan Application form. Furthermore, the interest rate is

[409] *See* Regulation Z § 1026.19(f)(1)(i).

[410] *See* Regulation Z § 1026.32(b)(1)(i)(E), (F); (b)(2)(i)(E), (F).

[411] *See* Small Business Review Panel Report at 31–32, 74, 102, 130.

[412] *See id.* at 42.

[413] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

[414] The pricing information provided by the rate spread relies on the annual percentage rate, which is different than the interest rate. The interest rate is the cost of the loan expressed as a percentage rate. The annual percentage rate is ''a measure of the cost of credit, expressed as a yearly rate, that relates the amount and timing of value received by the consumer to the amount and timing of payments made.'' Regulation Z § 1026.22(a)(1); *see also* Regulation Z § 1026.14 (describing the determination of APR for open-end credit). The cost of credit represented by the APR includes discount points, origination fees, other charges retained by the creditor, and certain third-party charges. Therefore, the rate spread and interest rate represent different measures of loan pricing.

included in the MISMO version 3.3 data standard. For some financial institutions, however, the information might not be stored in a format readily available for HMDA purposes. Furthermore, the proposed interest rate reporting requirement would apply to all covered loans, not just loans subject to the disclosure requirements of Regulation Z.

The Bureau is aware of the potential costs associated with requiring reporting of the interest rate. Feedback received pursuant to the Bureau's outreach, however, suggests that these costs may be justified by the benefits of this information to the public and to public officials, and the Bureau believes that reporting of the interest rate is necessary to carry out HMDA's purposes. For the reasons given, this information would provide a more complete and useful picture of loan pricing, which would be helpful in determining whether financial institutions are serving the housing needs of their communities. Furthermore, as a component of loan pricing information, the interest rate would assist public officials and members of the public in identifying potentially discriminatory lending patterns. Therefore, pursuant to HMDA sections 305(a) and 304(b)(6)(J), the Bureau is proposing § 1003.4(a)(21), which provides that financial institutions shall report the interest rate that is or would be applicable to the covered loan at closing or account opening. The Bureau solicits feedback regarding whether this proposed requirement is appropriate.

During the Small Business Review Panel process, the small entity representatives expressed concern over the clarity of the interest rate reporting requirement.[415] The Small Business Review Panel recommended that the Bureau seek comment in the proposed rule on the costs to small financial institutions of providing the pricing data, and consider aligning the requirements of Regulation C to the pricing data used in other Federal and State mortgage disclosures.[416] The Bureau agrees that the interest rate reporting requirement should be clear and consistent with other regulations to the extent practicable. Consistent with the Small Business Review Panel's recommendation, for covered loans subject to the disclosure requirements of Regulation Z § 1026.38, the Bureau is proposing to use the methods of identifying the interest rate contained in Regulation Z, as explained in the proposed commentary accompanying proposed § 1003.4(a)(21). The Bureau is also soliciting feedback on the burden of reporting for small financial institutions.

Proposed comment 4(a)(21)–1 clarifies that a financial institution must identify the interest rate that is or would be applicable to the covered loan at closing or account opening, as applicable. Proposed comment 4(a)(21)–1 illustrates that for covered loans subject to the disclosure requirements of Regulation Z § 1026.38, a financial institution complies with proposed § 1003.4(a)(21) by identifying the interest rate that is the rate disclosed pursuant to Regulation Z § 1026.37(b)(2). For an adjustable-rate covered loan subject to the disclosure requirements of Regulation Z § 1026.38, if the interest rate at closing is not known, a financial institution complies with proposed § 1003.4(a)(21) by identifying the fully indexed rate, which, for purposes of § 1003.4(a)(21), means the interest rate calculated using the index value and margin at the time of closing, pursuant to Regulation Z § 1026.37(b)(2). Proposed instructions 4(a)(21)–1 and –2 in appendix A provide technical instructions regarding how to enter the data on the loan application register.

4(a)(22)

Regulation C does not currently require financial institutions to report information regarding the prepayment penalty associated with a mortgage loan. However, section 304(b) of HMDA[417] requires reporting of the term in months of any prepayment penalty or other fee or charge payable upon repayment of some portion of principal or the entire principal in advance of scheduled payments.[418] As discussed below, the Bureau is proposing to implement HMDA section 304(b)(5)(C) by requiring financial institutions to report the term, in months, of any prepayment penalty, as defined in Regulation Z § 1026.32(b)(6)(i) or (ii), as applicable.

Prepayment penalties are charges imposed on borrowers for paying all or part of the transaction's principal before the date on which the principal is due. The Bureau is proposing to align the definition of prepayment penalty for HMDA purposes with the definition found in Regulation Z § 1026.32(b)(6), which defines prepayment penalty for purposes of the high-cost and qualified mortgage rules. The amount and term in years of any potential prepayment penalty is listed on the loan terms table of the Closing Disclosure.[419]

In amending HMDA through section 1094 of the Dodd-Frank Act, Congress found that more specific loan pricing information would ''provide more transparency on underwriting practices and patterns in mortgage lending and help improve the oversight and enforcement of fair lending laws.''[420] Prepayment penalties are an important component of loan pricing. Loans with prepayment penalties are typically more expensive, and the Bureau has received feedback suggesting that information regarding prepayment penalties would improve the usefulness of the HMDA data for revealing potentially discriminatory lending patterns and for determining whether lenders are serving their communities.[421]

The Bureau has also received feedback favoring consistency between HMDA data points and items on the Closing Disclosure as a means of clarifying the regulation and reducing burden.[422] Although the term of any prepayment penalty is not listed in months on the Closing Disclosure, it is listed in years, which enables a relatively simple calculation. Furthermore, the prepayment penalty data point in this proposal is aligned to the ''prepayment penalty expiration months count'' data point in version 3.3 of the MISMO data standard.

To implement HMDA section 304(b)(5)(C), and pursuant to HMDA section 305(a), the Bureau is proposing § 1003.4(a)(22), which provides that, except for purchased covered loans, financial institutions shall report the term in months of any prepayment penalty, as defined in Regulation Z § 1026.32(b)(6)(i) or (ii), as applicable. To facilitate compliance, the Bureau is proposing to except covered loans that have been purchased by a financial institution from this reporting requirement because it does not believe that the term of the prepayment penalty would be evident on the face of the documentation obtained from the seller. Although the Closing Disclosure describes the term of any prepayment penalty that may be imposed on the borrower, this information is provided in years, rather than in months, as required by the Dodd-Frank Act and as implemented in this proposal. Furthermore, purchased covered loans not subject to the disclosure

[415] *See* Small Business Review Panel Report at 31, 85, 98, 102.

[416] *See id.* at 42.

[417] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

[418] 12 U.S.C. 2803(b)(5)(C).

[419] *See* Regulation Z § 1026.38 (b)(effective August 15, 2015).

[420] H.R. Rep. No. 111–702, at 191 (2011).

[421] Atlanta Hearing, *supra* note 131; Chicago Hearing, *supra* note 137; San Francisco Hearing, *supra* note 133.

[422] Atlanta Hearings, *supra* note 131.

requirements of Regulation Z would require no Closing Disclosure. The Bureau solicits feedback regarding the general utility and costs associated with collecting and reporting the data. The Bureau also solicits feedback on the scope of the proposed requirement, including whether to limit the prepayment penalty reporting requirement to loans subject to Regulation Z, or to apply it to purchased covered loans.

During the Small Business Review Panel process, the small entity representatives did not express significant concerns regarding reporting of the prepayment penalty.[423] One small entity representative questioned which amount would be reported in the case of a prepayment penalty that varied based on the borrower's actions.[424] The Small Business Review Panel recommended that the Bureau seek comment in the proposed rule on the costs to small financial institutions of providing the data, as well as on the methods of reporting this information that would minimize burden on small financial institutions while still meeting the Dodd-Frank Act reporting requirements and purposes of HMDA.[425] The Bureau agrees that the burden on small financial institutions should be minimized, but notes that HMDA section 304(b)(5)(C) specifically provides for reporting the prepayment penalty in months, rather than in amount or years, as provided on the Closing Disclosure. Consistent with the Small Business Review Panel's recommendation, the Bureau seeks feedback on the reporting burden for small financial institutions.

Proposed instruction 4(a)(22) in appendix A provides technical instructions regarding how to enter the data on the loan application register. Proposed instruction 4(a)(22)–1 provides technical instructions for entering the term in months of any prepayment penalty applicable to the covered loan or application. Proposed instruction 4(a)(22)–2 specifies that a financial institution must enter ''NA'' for covered loans for which a prepayment penalty may not be imposed under the terms of the covered loan, for covered loans not subject to this reporting requirement, such as purchased covered loans, or for applications for which the prepayment penalty term is unknown, such as applications closed for incompleteness.

4(a)(23)

Currently, neither HMDA nor Regulation C contains requirements regarding an applicant's or borrower's debt-to-income ratio. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[426] For the reasons discussed below, the Bureau is proposing to require financial institutions to report information related to the applicant's or borrower's debt-to-income ratio.

Financial institutions often consider the ratio of an applicant's total monthly debt to total monthly income as part of the underwriting process. The Bureau has received feedback suggesting that requiring the collection of this debt-to-income ratio would improve the usefulness of the HMDA data. An applicant's debt-to-income ratio is an important factor in the underwriting process that often affects the pricing of the credit offered to an applicant. In some cases, an applicant's debt-to-income ratio may determine whether an applicant is offered credit at all. Thus, this information may help the public determine whether financial institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. As debt-to-income ratio may be predictive of default, these data may help public officials identify geographic locations or segments of the population that would benefit from special public or private sector investment and lending programs.

However, the Bureau is concerned about the reliability of these data. Debt-to-income ratio calculations may vary between financial institutions, may vary within a financial institution based on the type of loan, and may evolve over time. Financial institutions that intend to sell a mortgage loan may calculate multiple debt-to-income ratios during the underwriting process based on internal and investor requirements. The Bureau is also concerned about the potential burden that may result from requiring the collection of debt-to-income ratio. For example, the Bureau is aware that some financial institutions may not rely on the debt-to-income ratio for underwriting purposes.

Collecting debt-to-income ratio information may impose a burden on financial institutions. However, feedback received from industry, consumer advocates, and other users of HMDA data suggests that the potential benefits to the public and to public officials may outweigh these potential burdens. Based on these considerations, the Bureau believes that it may be appropriate to require financial institutions to collect information regarding debt-to-income ratio. Accordingly, pursuant to its authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing § 1003.4(a)(23), which provides that, for a covered loan that is not, or an application that is not for, a reverse mortgage, a financial institution shall report the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision. The Bureau solicits feedback regarding whether this proposed requirement is appropriate generally, and specifically solicits feedback regarding whether this proposed requirement would be less burdensome than requiring the collection of other debt-to-income ratios, such as a debt-to-income ratio that is calculated according to investor requirements but is not relied on in making the credit decision, or the debt-to-income ratio that may be required under the ability-to-repay provisions of Regulation Z. Although the Bureau believes that this proposed requirement may be appropriate, the Bureau recognizes that financial institutions may not always rely on an applicant's debt-to-income ratio when making a credit decision, such as when underwriting a reverse mortgage transaction. Thus, proposed § 1003.4(a)(23) does not require a financial institution to collect debt-to-income ratio information for reverse mortgages. The Bureau solicits feedback regarding whether this proposed exception is appropriate and regarding whether there are other types of transactions in which an applicant's debt-to-income ratio is not considered.

During the Small Business Review Panel process, several small entity representatives expressed concern about a potential debt-to-income ratio reporting requirement.[427] The Small Business Review Panel recommended that the Bureau solicit comment on whether it would be less burdensome for small financial institutions if the Bureau adopted a specific method for calculating the debt-to-income ratio or would allow the small financial institutions flexibility in developing their own calculations for debt-to-income ratio.[428] Based on this feedback and consistent with the Small Business Review Panel's recommendation, the Bureau solicits feedback regarding whether it would be less burdensome

[423] *See* Small Business Review Panel Report at 29, 129.

[424] *See id.* at 102–03.

[425] *See id.* at 41.

[426] *See* Dodd-Frank Act section 1094(3)(A)(iv).

[427] *See* Small Business Review Panel Report at 27–28, 40, 81,103,129.

[428] *See id.* at 40.

for small financial institutions to report the debt-to-income ratio relied on in making the credit decision, or if it would be less burdensome to small financial institutions for the Bureau to adopt a specific debt-to-income ratio calculation.

Proposed comment 4(a)(23)–1 discusses the requirement that the financial institution collect the ratio of the applicant's or borrower's total monthly debt to total monthly income relied on in making the credit decision and provides an illustrative example. Proposed comment 4(a)(23)–2 clarifies, if a financial institution relies on a set of underwriting requirements in making a credit decision, and the requirements include the ratio of the applicant's or borrower's total monthly debt to total monthly income as one of multiple factors, § 1003.4(a)(23) requires the financial institution to report the DTI ratio considered as part of the set of underwriting requirements relied on by the financial institution. For example, if a financial institution relies on a set of underwriting requirements in making a credit decision, the requirements include the applicant's or borrower's DTI ratio as one of multiple factors, and the financial institution approves the application, the financial institution complies with § 1003.4(a)(23) by reporting the DTI ratio considered as part of the set of underwriting requirements. Similarly, if a financial institution relies on a set of underwriting requirements in making a credit decision, the requirements include the applicant's or borrower's DTI ratio as one of multiple factors, and the financial institution denies the application because an underwriting requirement other than the DTI ratio requirement is not satisfied, the financial institution complies with § 1003.4(a)(23) by reporting the DTI ratio considered as part of the set of underwriting requirements.

Proposed comment 4(a)(23)–3 clarifies that, if a file was closed for incompleteness, or if an application was withdrawn before a credit decision was made, a financial institution complies with § 1003.4(a)(23) by reporting that no credit decision was made, even if the financial institution had calculated the ratio of the applicant's total monthly debt to total monthly income. For example, if a file is incomplete and is so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(23) by reporting that no credit decision was made, even if the financial institution had calculated the applicant's DTI ratio. Similarly, if an application was expressly withdrawn by the applicant before a credit decision was made, the financial institution complies with § 1003.4(a)(23) by reporting that no credit decision was made, even if the financial institution had calculated the applicant's DTI ratio.

Proposed comment 4(a)(23)–4 clarifies that § 1003.4(a)(23) does not require a financial institution to calculate an applicant's or borrower's debt-to-income ratio, nor does it require a financial institution to rely on an applicant's or borrower's debt-to-income ratio in making a credit decision. This proposed comment also explains that if a financial institution makes a credit decision without relying on the applicant's or borrower's debt-to-income ratio, the financial institution complies with § 1003.4(a)(23) by reporting that no debt-to-income ratio was relied on in connection with the credit decision. Under appendix A, proposed instruction 4(a)(23)–1 provides technical instructions regarding how to enter the debt-to-income ratio data on the loan application register. Proposed instruction 4(a)(23)–2 provides technical instructions for covered loans in which no debt-to-income ratio is relied on in connection with the credit decision, for reverse mortgages, for files closed for incompleteness, and for applications withdrawn before a credit decision is made.

4(a)(24)

Currently, neither HMDA nor Regulation C contains requirements regarding loan-to-value ratio. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[429] For the reasons discussed below, the Bureau is proposing to require financial institutions to report the ratio of the total amount of debt secured by the property to the value of the property.

Financial institutions regularly calculate the loan-to-value (LTV) ratio and the combined loan-to-value (CLTV) ratio as part of the underwriting process. The LTV ratio generally refers to the ratio of the value of a secured debt to the value of the property securing the debt, while the CLTV ratio generally refers to the ratio of total amount of secured debt to the value of the property securing the debt. As discussed in part III.A above, during the 2010 Board Hearings the CLTV ratio was cited as an important factor both in the determination of whether to extend credit and for the pricing terms upon which credit would be extended. The Bureau also has received feedback that the CLTV ratio is a standard underwriting factor regularly calculated by financial institutions, both for a financial institution's own underwriting purposes and to satisfy investor requirements. Furthermore, during the mortgage market crisis State and Federal officials focused on CTLV ratios in crafting emergency mortgage programs to assist homeowners with secured debt in excess of the value of their homes. Thus, it appears that data related to the CLTV ratio would improve the usefulness of the HMDA data.

However, a potential CLTV reporting requirement may pose some challenges. The Bureau is generally concerned about the potential burden associated with reporting calculated data fields, such as the CLTV ratio. Also, CLTV ratio calculations on home-equity lines of credit may vary between financial institutions, which may affect the reliability of these data. Furthermore, the Bureau understands that CLTV ratios may not be entirely accurate, especially when the exact values of multiple debts secured by the property is not known until the date of closing or after, which may present a challenge for reporting purposes.

Notwithstanding these concerns about a CLTV reporting requirement, the potential benefits seem to outweigh the potential burdens. CLTV ratios appear to be calculated by all financial institutions, are a significant factor in the underwriting process, and provide valuable insight into both the stability of community homeownership and the functioning of the mortgage market. In contrast, the burdens associated with a CLTV reporting requirement appear to be limited to the general burden associated with reporting HMDA data and technical issues related to determining the exact ratio. Furthermore, by providing information regarding the combined loan-to-value ratio of transactions subject to Regulation C, this proposed provision would ensure that the citizens and public officials of the United States are provided with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. Combined loan-to-value ratio data also would assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

Based on these considerations, the Bureau believes that requiring financial institutions to collect information regarding CLTV ratios may be necessary to carry out HMDA's purposes.

[429] *See* Dodd-Frank Act section 1094(3)(A)(iv).

Accordingly, pursuant to its authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing § 1003.4(a)(24), which provides that a financial institution shall record the ratio of the total amount of debt secured by the property to the value of the property, as determined in accordance with proposed § 1003.4(a)(24)(i) and (ii). Proposed § 1003.4(a)(24)(i) provides that, for a covered loan that is a home-equity line of credit, the ratio shall be determined by dividing the sum of the unpaid principal balance of the first mortgage, the full amount of any home-equity line of credit (whether drawn or undrawn), and the balance of any other subordinate financing by the value of the property. Proposed § 1003.4(a)(24)(ii) provides that, for a covered loan that is not a home-equity line of credit, the ratio shall be determined by dividing the combined unpaid principal balance amounts of the first and all subordinate mortgages, excluding undrawn home-equity lines of credit amounts, by the value of the property.

The Bureau solicits feedback regarding whether this proposed requirement is appropriate generally. Also, as part of the Bureau's effort to align the Regulation C requirements to the MISMO data standards discussed in part II.B above, this proposed requirement is conceptually identical and textually similar to the definitions of the Combined LTV Ratio Percent data point and Home Equity Combined LTV Ratio Percent data point in proposed MISMO version 3.3. The Bureau solicits feedback regarding whether this proposed alignment is appropriate and whether the text of this proposed requirement should be clarified. Finally, although the Bureau believes that financial institutions calculate CTLV ratios on all transactions subject to Regulation C, the Bureau solicits feedback regarding whether there are particular transactions in which a CLTV ratio would not be calculated or considered during the underwriting process.

During the Small Business Review Panel process, several small entity representatives stated that a combined loan-to-value ratio reporting requirement would pose particular burdens and challenges, especially with respect to ratios on home-equity lines of credit and commercial loans.[430] The Small Business Review Panel recommended that, in addition to soliciting comment on whether to require reporting of the combined loan-to-value ratio, the Bureau solicit comment on whether a Bureau-defined calculation method would be less burdensome for small financial institutions than allowing the financial institutions to develop their own calculations for the combined loan-to-value ratio.[431] Consistent with the Small Business Review Panel's recommendation, in addition to the general solicitation of feedback provided above, the Bureau solicits feedback regarding whether it would be less burdensome for small financial institutions to report the combined loan-to-value relied on in making the credit decision, or if it would be less burdensome to small financial institutions for the Bureau to adopt a specific combined loan-to-value ratio calculation.

Proposed comment 4(a)(24)–1 clarifies that, if a financial institution makes a credit decision without calculating the combined loan-to-value ratio, the financial institution complies with § 1003.4(a)(24) by reporting that no combined loan-to-value ratio was calculated in connection with the credit decision. Proposed comment 4(a)(24)–2 explains that, for home-equity lines of credit, § 1003.4(a)(24)(i) requires a financial institution to calculate the combined loan-to-value ratio by including the full amount of any home-equity line of credit, whether drawn or undrawn, and provides illustrative examples. Proposed comment 4(a)(24)–3 explains that, for transactions that are not home-equity lines of credit, § 1003.4(a)(24)(ii) requires a financial institution to calculate the combined loan-to-value ratio by including the amounts outstanding under home-equity lines of credit secured by the property, and provides illustrative examples. Under appendix A, proposed instruction 4(a)(24)–1 provides technical instructions regarding how to enter the combined loan-to-value ratio data on the loan application register. Proposed instruction 4(a)(24)–2 provides technical instructions for covered loans in which no combined loan-to-value ratio is calculated.

4(a)(25)

Regulation C does not require financial institutions to report information regarding the loan's term. HMDA section 304(b)(6)(D) requires, for loans and completed applications, reporting of the actual or proposed term in months of the mortgage loan.[432] The length of time a borrower has to repay a loan is an important loan feature for both borrowers and creditors. For borrowers, the loan term helps determine the amount of principal due with each payment, which significantly influences both the borrower's ability to afford the loan and the amount of interest the borrower will pay over the life of the loan. For creditors, the loan term impacts the creditor's interest rate risk and is thus a significant factor in the risk of extending credit and can affect loan pricing. For these reasons, including loan term in HMDA will help provide a more complete picture of the covered loans reported and may help to explain pricing or other differences that were previously indiscernible with HMDA data. The proposal to report information about non-amortizing features, discussed below in the section-by-section analysis of proposed § 1003.4(a)(27) may be useful in discerning differences in covered loans with similar loan terms that may in fact be very different because of how the loans amortize.

Proposed § 1003.4(a)(25) implements HMDA section 304(b)(6)(D) by requiring financial institutions to collect and report data on the number of months until the legal obligation matures for a covered loan or application. During the Small Business Review Panel process, small entity representatives expressed some concerns about reporting loan term for certain types of loans, including home-equity lines of credit and loans with different amortization and maturity terms.[433] The proposed instructions in appendix A for paragraph 4(a)(25) provide details on reporting loan term for home-equity lines of credit and other specific types of covered loans. Proposed instruction 4(a)(25)–1.b provides that the loan term for an open-end line of credit with a definite term includes both the draw and the repayment period. The Bureau believes that including both the draw and repayment periods for home-equity lines of credit most accurately reflects the loan term. Proposed instruction 4(a)(25)–1.c provides that, for covered loans without a definite term, including some home-equity lines of credit and reverse mortgages, institutions should report the loan term as ''NA.'' The Bureau believes that this proposed instruction will facilitate compliance by differentiating covered loans without a definite term.

Proposed comment 4(a)(25)–1 clarifies that, for covered loans that have different maturity and amortization terms, the loan term reported should be

[430] *See* Small Business Review Panel Report at 14, 30, 57, 80, 96, 101.

[431] *See id.* at 41.

[432] Dodd-Frank Act section 1094(3)(A)(iv), 12 U.S.C. 2803(b)(6)(D).

[433] *See* Small Business Review Panel Report at 29, 98.

the maturity term. The comment provides an example of a five year balloon loan for illustration purposes. For covered loans with a balloon payment or other amortization features which would cause the covered loan not to be fully amortizing over its term, such features would be reported under the requirements of proposed § 1003.4(a)(27). Proposed comment 4(a)(25)–2 would clarify that for covered loans with non-monthly repayment schedules, such as a covered loan with a bi-weekly repayment schedule, the loan term should be reported in months and the term reported should not include any fractional months remaining. The Bureau believes this comment would facilitate compliance by providing guidance on how to report loan terms for covered loans with repayment schedules measured in time units other than months.

The Small Business Review Panel recommended that the Bureau seek public comment on what method of reporting loan term would minimize burden on small financial institutions while still meeting the Dodd-Frank Act reporting requirements and purposes of HMDA.[434] Consistent with the recommendation of the Small Business Review Panel, the Bureau solicits feedback on what method of reporting loan term would minimize burden on small financial institutions while still meeting the Dodd-Frank Act reporting requirements and purposes of HMDA.

Section 1003.4(a)(25) is proposed to implement HMDA section 304(b)(6)(D). The Bureau believes the proposed reporting requirement will provide the public and public officials with data to help determine whether financial institutions are serving the housing needs of their communities by providing information about the types of loans that are being made, and assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes by allowing information about similar loans to be compared and analyzed appropriately.

4(a)(26)

Regulation C does not require financial institutions to report information regarding the number of months until the first interest rate adjustment may occur. HMDA section 304(b)(6)(B) requires the reporting of the actual or proposed term in months of any introductory period after which the rate of interest may change.[435] Proposed § 1003.4(a)(26) implements this requirement by requiring financial institutions to collect and report data on the number of months until the first date the interest rate may change after loan origination. Proposed § 1003.4(a)(26) would apply regardless of how the interest rate adjustment is characterized by product type, such as adjustable rate, step rate, or another type of product with a ''teaser'' rate. Interest rate variability can be an important feature in long-term affordability for borrowers, and the Bureau believes that reporting this information will allow for better analysis of loans and applications using HMDA data.

The proposal provides instructions for reporting the introductory period in appendix A. Proposed instruction 4(a)(26)–1.a provides that the introductory period should be reported as ''NA'' for a fixed-rate covered loan. Proposed instruction 4(a)(26)–1.b provides that the introductory period should be reported as measured from loan origination for purchased loans, or ''NA'' for purchased fixed rate loans. Proposed comment 4(a)(26)–1 illustrates the requirement to report the introductory interest rate period, including for a home-equity line of credit with a teaser rate; an adjustable-rate loan with an introductory rate; and a step-rate loan with an introductory rate that then adjusts to a different, known rate. Proposed comment 4(a)(26)–2 provides guidance on preferred rates. The comment provides illustrative examples of preferred rates and provides that a financial institution reports initial interest rate periods based on preferred rates only if the terms of the legal obligation provide that the preferred rate will expire at a defined future date.[436]

The Small Business Review Panel recommended that the Bureau seek public comment on what method of reporting initial interest rate period would minimize burden on small financial institutions while still meeting the Dodd-Frank Act reporting requirements and purposes of HMDA.[437] Consistent with the recommendation of the Small Business Review Panel, the Bureau solicits feedback on what method of reporting initial interest rate period would minimize burden on small financial institutions while still meeting the Dodd-Frank Act reporting requirements and purposes of HMDA.

4(a)(27)

Regulation C currently does not require financial institutions to report whether a loan allows or would have allowed the borrower to make payments other than fully amortizing payments. HMDA section 304(b)(6)(C) requires reporting of the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term.[438] Non-amortizing features, once a rarity, became more commonplace in the lead-up to the mortgage crisis. Such features can put borrowers at risk and even lead to foreclosure if the borrower is unable to pay the principal balance of the loan when it eventually becomes due. The Dodd-Frank Act addressed non-amortizing features of loans in a variety of contexts. For example, the definition of a qualified mortgage in TILA section 129C(b)(2)(A), as added by Dodd-Frank Act section 1412, generally excludes from that definition residential mortgage loans for which regular periodic payments may result in an increase of the principal balance, or that allow deferred repayment of principal and interest, as well as loans the terms of which result in certain balloon payments.

The Bureau is proposing to implement HMDA section 304(b)(6)(C) by adding new § 1003.4(a)(27) to Regulation C. During the Small Business Review Panel process, small entity representatives generally agreed that this information is currently collected and available.[439] One small entity representative requested that the Bureau clearly define and provide specific examples of non-amortizing features.[440] The Bureau believes it is reasonable to interpret HMDA section 304(b)(6)(C) to require reporting non-amortizing features by identifying specific, well-defined non-amortizing loan features. Proposed § 1003.4(a)(27) requires reporting of balloon payments, as defined by 12 CFR 1026.18(s)(5)(i), under § 1003.4(a)(27)(i); interest only payments, as defined by 12 CFR 1026.18(s)(7)(iv), under § 1003.4(a)(27)(ii); a contractual term that could cause the loan to be a negative amortization loan, as defined by 12 CFR 1026.18(s)(7)(v), under

[434] Small Business Review Panel Report at 41.

[435] Dodd-Frank Act section 1094(3)(A)(iv), 12 U.S.C. 2803(b)(6)(D).

[436] The guidance provided by the commentary gives examples using the loan product designations from the Loan Estimate pursuant to the Bureau's 2013 TILA–RESPA Final Rule, and would be consistent with similar guidance on preferred rates in Regulation Z. *See* 78 FR 79730, 79916 (Dec. 31, 2013), Regulation Z comments 17(c)(1)–11.iii and 40(d)(12)(viii)–1.

[437] Small Business Review Panel Report at 41.

[438] Section 1094(3)(A)(iv), 12 U.S.C. 2803(b)(6)(C).

[439] *See* Small Business Review Panel Report at 29–30.

[440] *See* Small Business Review Panel Report at 79.

§ 1003.4(a)(27)(iii); or any other contractual term that would allow for payments other than fully amortizing payments, as defined by 12 CFR 1026.43(b)(2), under § 1003.4(a)(27)(iv). The Bureau believes that proposed § 1003.4(a)(27)(iv) concerning ''other'' types of non-amortizing features would implement HMDA section 304(b)(6)(C) so as to carry out HMDA's purposes, and that it may be helpful in identifying other such features that may be present in the market or that may arise at a later time.

As discussed above, the Bureau is proposing to define the terms for reporting under Regulation C consistent with Regulation Z definitions to facilitate compliance. The Bureau is proposing to add comment 4(a)(27)–1 in order to facilitate compliance and provide additional guidance on alignment with Regulation Z. Proposed comment 4(a)(27)–1 would provide that an institution may rely on the definitions in Regulation Z for the contractual features to be reported, but clarifies that loans or applications should be reported without regard to whether the credit is for personal, family, or household purposes, without regard to whether the person to whom credit is extended is a consumer, without regard to whether the property is a dwelling, and without regard to whether the person extending credit is a creditor, as those terms are defined in Regulation Z.

Proposed appendix A instructions 4(a)(27)(i), (ii), (iii), and (iv) provide that financial institutions should indicate whether a particular feature is present by using true or false. The Bureau solicits comments on whether any exclusions for this reporting requirement for certain types of loans are appropriate, and on whether any additional non-amortizing features should be specifically identified rather than reported under § 1003.4(a)(27)(iv).

The Small Business Review Panel recommended that the Bureau seek public comment on what method of reporting non-amortizing features would minimize burden on small financial institutions while still meeting the Dodd-Frank Act reporting requirements and purposes of HMDA.[441] Consistent with the recommendation of the Small Business Review Panel, the Bureau solicits feedback on what method of reporting non-amortizing features would minimize burden on small financial institutions while still meeting the Dodd-Frank Act reporting requirements and purposes of HMDA.

Section 1003.4(a)(27) is proposed to implement HMDA section 304(b)(6)(C). The proposed reporting requirement will provide the public and public officials with data to help determine whether financial institutions are serving the housing needs of their communities by providing information about the types of loans that are being made, and assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes by allowing information about similar loans to be compared and analyzed appropriately.

4(a)(28)

Regulation C does not require financial institutions to report information regarding the value of the property that secures or will secure the loan. HMDA section 304(b)(6)(A) requires the reporting of the value of the real property pledged or proposed to be pledged as collateral.[442] Proposed § 1003.4(a)(28) implements this requirement by requiring financial institutions to report the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan relied on in making the credit decision.

Regulation C currently includes a requirement to report loan amount. Knowing the property value in addition to loan amount allows HMDA users to estimate the loan-to-value ratio (LTV). LTV measures a borrower's equity in the property and is a key underwriting and pricing criterion. A 2009 GAO report on fair lending noted that LTV would be valuable for screening for discriminatory practices.[443] During the Board's 2010 Hearings, LTV was specifically mentioned as a topic of consideration.[444] Many panelists at the hearings supported adding LTV to Regulation C.[445]

Property valuation has also long been an issue of concern for consumers and fair housing advocates.[446] ECOA was amended in 1991 to require creditors to provide applicants with appraisal reports upon request for dwelling-secured loans.[447] ECOA was amended by the Dodd-Frank Act to mandate the provision of appraisals and other valuations developed in connection with applications for first lien dwelling-secured loans, and these requirements are implemented by the Bureau's ECOA valuations rule.[448] Adding property value to HMDA data will further HMDA's purposes by providing additional information on how institutions are serving the housing needs of their communities. The additional information about LTV may also help to explain disparities that otherwise might appear to be part of a potentially discriminatory pattern.

During the Small Business Review Panel process, small entity representatives expressed some concerns regarding reporting of property value.[449] Some small entity representatives noted that multiple valuations are sometimes developed during the application process, and that valuations may not be available for certain types of loans. One small entity representative recommended that the value reported should be the one relied on in the credit decision.[450]

Appendix A provides technical instructions for reporting the property value relied on in dollars. Proposed instruction 4(a)(28)–1 would provide that financial institutions should report the value of the property relied on in making the credit decision in dollars. Proposed instruction 4(a)(28)–2 would provide that if the value of the property was not relied on in making the credit decision, the value should be reported as ''NA.'' The Bureau is proposing to add new comment 4(a)(28)–1 in order to facilitate compliance. Proposed comment 4(a)(28)–1 explains how to report the property value used by an institution in calculating loan-to-value ratio. The comment provides that if an institution relied on an appraised value for the property, it would report that value. However, if an institution relied

[441] Small Business Review Panel Report at 41.

[442] Dodd-Frank Act section 1094(3)(A)(iv), 12 U.S.C. 2803(b)(6)(A).

[443] GAO, *Fair Lending: Data Limitations and the Fragmented U.S. Financial Regulatory Structure Challenge Federal Oversight and Enforcement Efforts,* GAO–09–704, 21 (July 2009), *http://www.gao.gov/new.items/d09704.pdf.*

[444] 75 FR 35030, 35032 (June 21, 2010).

[445] Atlanta Hearing, *supra* note 131; San Francisco Hearing, *supra* note 133; Chicago Hearing, *supra* note 137; Washington Hearing, *supra* note 130.

[446] Early fair housing litigation challenged discriminatory appraisal practices including, for example, a practice which adjusted property values downward if the ethnic composition of the neighborhood to which the property belonged was not homogenous. *See United States v. Am. Inst. of Real Estate Appraisers of Nat'l Ass'n of Realtors,* 442 F.Supp. 1072 (N.D. Ill. 1977). The 1988 amendments to the Fair Housing Act explicitly banned discriminatory appraisal practices, 42 U.S.C. 3605. The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 provided for review of the GSEs with respect to potential discriminatory effects of appraisal guidelines, including consideration of the age of dwellings or the age of neighborhoods. 12 U.S.C. 4545(1), (6).

[447] Public Law 102–242, section 223, 105 Stat. 2236 (1991).

[448] 15 U.S.C. 1691(e); Regulation B § 1002.14; 78 FR 7216 (Jan. 31, 2013).

[449] *See* Small Business Review Panel Report at 30, 41.

[450] *See id.*

on the purchase price of the property, it would report that value. The Bureau is also proposing to add new comment 4(a)(28)–2, which provides guidance for reporting property value when multiple valuations are obtained. It provides as an example that when a financial institution obtains two appraisals or other valuations with different values for the property, it reports the value relied on in making the credit decision.

The Small Business Review Panel recommended that the Bureau clarify in the proposed rule and seek public comment on which property valuations must be reported. As discussed above, the proposal provides guidance on which property valuation to report.[451] Consistent with the recommendation of the Small Business Review Panel, the Bureau solicits feedback on which property valuations should be reported.

For the reasons given in the section-by-section analysis of proposed § 1003.4(a)(29), the Bureau believes that implementing HMDA through Regulation C to treat mortgage loans secured by all manufactured homes consistently, regardless of legal classification under State law, is reasonable, and is necessary and proper to effectuate HMDA's purposes and facilitate compliance therewith. Accordingly, pursuant to its authority under HMDA sections 305(a) and 304(b)(6)(A), the Bureau proposes § 1003.4(a)(28). The Bureau believes that this proposed reporting requirement is necessary and proper to effectuate the purposes of HMDA and facilitate compliance therewith. The proposed reporting requirement will provide the public and public officials with data to help determine whether financial institutions are serving the housing needs of their communities by providing information about the values of properties that are being financed; it will also assist public officials in distributing public-sector investment so as to attract private investment by providing information about property values; and it will assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes by allowing information about similar loans to be compared and analyzed appropriately.

4(a)(29)

Neither HMDA nor Regulation C requires financial institutions to report whether loans relating to manufactured homes are or would be secured by real or personal property. Section 304(b) of HMDA permits disclosure of such other information as the Bureau may require.[452] For the reasons discussed below, the Bureau believes it may be appropriate to require financial institutions to report whether a manufactured home is legally classified as real property or as personal property.

Since 1988, Regulation C has required reporting of home purchase and home improvement loans and refinancings related to manufactured homes, whether or not the homes are considered real property under State law.[453] Manufactured homes serve vital housing needs in communities and neighborhoods throughout the United States. For example, manufactured housing is the largest unsubsidized source of affordable homeownership in the United States.[454] Manufactured homes also often share certain essential financing features with non-manufactured homes. But classifications of manufactured homes as real or personal property vary significantly among States and can be ambiguous.[455]

Regulation C's consistent treatment of manufactured housing in HMDA data has proven important to furthering HMDA's purposes and provided communities and public officials with important information about manufactured housing lending.[456] The Bureau believes that the unique nature of the manufactured home financing market warrants additional information reporting. Although in many respects manufactured and site built housing are similar, manufactured home financing reflects certain key differences as compared to site built home financing. State laws treat site built homes as real property, with financing secured by a mortgage or deed of trust. On the other hand State law may treat manufactured homes as personal property or real property depending on the circumstances.[457] Manufactured home owners may own or rent the underlying land, which is an additional factor in manufactured home owners' total housing cost and can be relevant to financing.[458]

These features of manufactured home financing can significantly influence interest rates, loan pricing, appraisal and valuation practices, and applicable legal protections.[459] HMDA data from 2012 on manufactured homes highlight many of the differences between manufactured housing lending and lending related to site built homes. For example, 82 percent of conventional first-lien home purchase loans for manufactured homes were higher-priced, compared to 3.2 percent for similar loans for site built homes. The average rate spread of those higher-priced manufactured home loans was 6 percent, compared to 2.6 percent for the site built home loans. The denial rate for first-lien conventional owner-occupied home purchase loans for manufactured housing was 56 percent, compared to 13.7 percent for similar loans for site built homes. Given these differences and the importance of manufactured housing to low- and moderate-income families, the Bureau believes that additional information collection and reporting on manufactured housing will further the purposes of HMDA.

Different legal regimes, tax implications, appraisal standards, and consumer protections can depend on whether the manufactured home is legally classified as personal property or as real property.[460] Further, the Bureau understands that there are different underwriting and pricing considerations based on the distinction. Because of the importance of manufactured housing to the housing market, the Bureau believes that additional information on the legal classification of the manufactured home will improve the utility of HMDA data for manufactured housing.

Participants at the Board's 2010 Hearings discussed the distinctions between chattel and real property manufactured home loans, and some recommended differentiating them in HMDA.[461] Additional feedback was also received as part of the Board's 2010 Hearings that supported differentiating

[451] Small Business Review Panel Report at 41.

[452] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

[453] 53 FR 31683, 31685 (Aug. 19, 1988).

[454] Ann M. Burkhart, *Bringing Manufactured Housing into the Real Estate Finance System,* 37 Pepperdine Law Review 427, 428 (2010), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1548441.*

[455] *See* James M. Milano, *An Overview and Update on Legal and Regulatory Issues in Manufactured Housing Finance,* 60 Consumer Financial Law Quarterly Report 379, 383 (2006); Burkhart, *supra* note 438, at 430.

[456] Adam Rust & Peter Skillern, Community Reinvestment Association of North Carolina, *Nine Myths of Manufactured Housing: What 2004 HMDA Data says about a Misunderstood Sector* (2006), *available at http://www.reinvestmentpartners.org/sites/reinvestmentpartners.org/files/Myths-and-Realities-of-Manufactured-Housing.pdf*; Delaware State Housing Authority, *Manufactured Housing in Delaware: A Summary of Information and Issues* (2008), *available at http://www.destatehousing.com/FormsAndInformation/Publications/manu_homes_info.pdf.*

[457] Milano, *supra* note 439 at 380.

[458] William Apgar, et al., *An Examination of Manufactured Housing Community- and Asset-Building Strategies* 5 (2002).

[459] GAO, *Federal Housing Administration: Agency Should Assess the Effects of Proposed Changes to the Manufactured Home Loan Program,* GAO 07–879, *available at http://www.gao.gov/new.items/d07879.pdf.*

[460] *See generally* Burkhart, *supra* note 438.

[461] Washington Hearing, *supra* note 130.

real and personal property manufactured home loans. The Bureau understands that classifying the loan as either a real property or a personal property loan may not provide a complete picture of manufactured housing finance. For example, certain State laws permit manufactured homes to be legally classified as real property even if the home is sited on leased land, such as in a manufactured home community, and such a manufactured home could be secured by a leasehold mortgage.[462] The Bureau also understands that there could be reporting questions that arise from certain aspects of manufactured housing lending, such as lenders offering combination land/home financing wherein the manufactured home is secured as personal property but the land is secured as real property; or where the security interest taken in the manufactured home may change as the transaction progresses; or where a lender may, out of prudence, perfect its security interest in a manufactured home through multiple methods.[463] The Bureau understands that there may be ambiguities in certain State laws about the legal classification of a manufactured home as personal property or real property, and that, as a result, it may not be clear whether certain financing transactions should be classified as mortgage transactions.[464]

During the Small Business Review Panel process, the small entity representatives generally did not oppose collecting information on whether manufactured housing is legally classified as real or personal property. Several small entity representatives noted that State laws often determine under what circumstances a manufactured home is treated as real or personal property, and that there are pricing differences dependent on that classification. One small entity representative noted that this could be easily collected, and believed the data would be useful for examiners and consumer advocates and might help to clear up confusion as to the legal classification of the dwelling in certain circumstances.[465]

The Bureau's proposal is tied to the manufactured home's legal classification rather than characterizing the loan as a real property or personal property loan. Both GSE selling guides refer to the legal classification of the manufactured home for purposes of eligibility requirements.[466] The Bureau believes that the manufactured housing's legal classification under applicable State law will facilitate compliance by focusing the reporting requirement on the status of the dwelling, rather than on the characterization of the loan or how the obligation is secured. As discussed below, the Bureau is also proposing to collect additional information regarding the applicant or borrower's property interest in the land on which the manufactured home is located, which will provide more detailed HMDA data about manufactured housing loans when combined with data about the legal classification of the home.

Proposed additions to appendix A provide technical instructions for reporting the legal classification for manufactured housing. As discussed in the section-by-section analysis of proposed § 1003.4(a)(9) and proposed comment 4(a)(9)–2, if more than one property is taken, or in the case of an application, proposed to be taken as security for a single covered loan or application, a financial institution may report one of the properties in a single entry on its loan application register or report all of the properties using multiple entries on its loan application register. Regardless of whether the financial institution elects to report the transaction in one entry or more than one entry, the information required by § 1003.4(a)(29) should relate to the property identified under paragraph 4(a)(9). The Bureau is also proposing comment 4(a)(29)–2 to clarify how to report the information required by § 1003.4(a)(29) for a covered loan secured by, or in the case of an application, proposed to be secured by, more than one property.

For the reasons given, pursuant to its authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing § 1003.4(a)(29), which requires financial institutions to report whether a dwelling is legally classified as real property or as personal property, if the dwelling related to the property identified in § 1003.4(a)(9) is a manufactured home. Pursuant to its authority under HMDA section 305(a) to provide for adjustments for any class of transactions, the Bureau believes that interpreting HMDA to treat mortgage loans secured by all manufactured homes consistently is necessary and proper to effectuate HMDA's purposes and facilitate compliance therewith. In light of changes in the mortgage market, certain differences between manufactured housing lending and lending related to site built homes, and the importance of manufactured housing generally, especially for low- and moderate-income families, the Bureau believes proposed § 1003.4(a)(29) will provide necessary insight into this loan data and allow it to be used to help determine whether financial institutions are serving the housing needs of their communities, assist public officials in public-sector investment determinations, and assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

The Bureau solicits feedback on these requirements in general. In particular, the Bureau solicits feedback on whether reporting the legal classification of the dwelling appropriately captures distinctions between personal property and real property lending, whether possible ambiguities in State law could make compliance with the reporting requirement difficult, and whether additional guidance could be provided on what information financial institutions could rely on to facilitate compliance.

4(a)(30)

Neither HMDA nor Regulation C requires financial institutions to report information about what property interest applicants or borrowers have in the land on which their manufactured homes are located. Section 304(b) of HMDA permits disclosure of such other information as the Bureau may require.[467] For the reasons discussed below, the Bureau believes it may be

[462] *See, e.g.,* Cal. Health & Safety Code § 18551(a)(1)(A); Colo. Rev. Stat. § 38–29–202(1)(d); Conn. Gen. Stat. § 21–67a; Fla. Stat. § 319.261; Idaho Code § 63–304(1)(b); N.H. Rev. Stat. § 477:44, subp. I; Or. Rev. Stat. § 446.626(1); S.C. Code § 56–19–510; Tex. Occ. Code § 1201.2055.

[463] Manufactured Housing Institute, *Quick Facts: Trends and Information About the Manufactured Housing Industry,* 6 (2013), *http://www.manufacturedhousing.org/lib/forcedownload.asp?filepath=www.manufacturedhousing.org/admin/template/brochures/93temp.pdf*; Milano, *supra* note 437, at 381 n. 14.

[464] *See generally* Milano *supra* note 439.; *See* Burkhart *supra* note 438 at 443; Uniform Manufactured Housing Act § 4(c) comment (''This provision eliminates the ambiguity that currently exists in some state statutes concerning the purposes for which the home is to be treated as real property. When a statutory provision that a manufactured home can be classified as real property does not include this type of language, courts have questioned whether the home is real property only for certain purposes, such as financing, or for all purposes.'') (2012), *available at http://www.uniformlaws.org/Committee.aspx?title=Manufactured%20Housing%20Act.*

[465] *See* Small Business Review Panel Report at 32, 33, 99, and 127.

[466] Fannie Mae, *Fannie Mae Single Family Selling Guide* § B5–2–02 (June 24, 2014), *available at http://www.fanniemae.com/content/guide/sel062414.pdf*; Freddie Mac, *Freddie Mac Single Family Selling Guide* § H33.2 (June 24, 2014), *available at http://www.freddiemac.com/singlefamily/guide/bulletins/pdf/062414Guide.pdf.*

[467] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

appropriate to require financial institutions to collect and report whether the applicant or borrower owns the land on which the manufactured home is or will be located through a direct or indirect ownership interest or leases the land through a paid or unpaid leasehold interest.

Manufactured home owners generally either own or lease the land on which the manufactured home is sited.[468] Land may be owned either directly or indirectly through a cooperative or similar ownership structure. A leasehold interest could arise through a lease with specified terms and rental payments or through a tenancy at will arising from the landowner's permission. Whether a manufactured home owner owns or rents the underlying land can have important implications for the financing of the transaction and its long-term affordability and the appreciation of the manufactured home.[469] Because of the importance of manufactured housing to the housing market, the Bureau believes that additional information on the applicant or borrower's land property interest may improve the utility of HMDA data for manufactured housing.

During the Small Business Review Panel process some small entity representatives believed that it could be burdensome to collect this information. One small entity representative noted that the information may be gathered for loan servicing, but it might not be available for withdrawn or denied loans.[470] The Bureau believes that financial institutions may already be collecting or analyzing some information on land property interest for underwriting or servicing purposes. Cooperative fees, ground rent, and leasehold payments are included in the definition of mortgage-related obligations in § 1026.43(b)(8) of Regulation Z pursuant to the Bureau's 2013 ATR Final Rule, for example. Creditors subject to the rule are required to consider such obligations in assessing an applicant's ability-to-repay and to verify the information using reasonably reliable third-party records pursuant to § 1026.43(c).

Many manufactured homes are located on leased land. For example, in a manufactured home park, the home owner pays rent to the park owner for the right to occupy a lot in addition to making payments on the manufactured home loan.[471] The park owner typically provides sewer, water, roads, and other services.[472] A manufactured home owner could also lease land outside of a manufactured home park. Finally, manufactured homes are sometimes located on land for which the manufactured home owner does not own or have a formal lease. For example, a manufactured home owner may be permitted by a family member to locate the home on family land.[473] This arrangement could be formal or informal, without a specific agreement as to term or rent. Even in such an informal arrangement a tenancy at will leasehold interest may arise.[474]

As discussed above, if the land on which the manufactured home is located is owned it could be financed with the manufactured home in a land/home loan, or the land could be financed separately or already owned by the manufactured home loan borrower. An emerging scenario involves a manufactured home park owned as a cooperative by the residents, often called a resident-owned community.[475] As compared to owners of manufactured homes on leased land, the residents in such communities have greater control over the property on which their homes are located due to their communal ownership interest.[476] One study found that residents who own their communities benefit from lower lot fees, higher home sale prices, faster home sales, and access to better financing.[477]

Proposed additions to appendix A provide technical instructions for reporting land property interest for manufactured housing covered loans and applications. Proposed instruction 4(a)(30)–1 instructs financial institutions to indicate whether the applicant or borrower's interest in the land on which the manufactured home related to the covered loan or application is or will be located is a direct ownership interest, an indirect ownership interest (such as a home in a resident-owned community), a paid leasehold interest (such as a lease for a lot in a manufactured home park), or an unpaid leasehold interest (such as a home on family-owned land). Proposed instruction 4(a)(30)–1.e provides for reporting ''not applicable'' if the dwelling is not a manufactured home or the location for the manufactured home is not determined.

The proposal adds comment 4(a)(30)–1, which provides additional guidance on indirect ownership. The comment provides illustrative guidance on identifying resident-owned communities and examples of reporting land property interest depending on whether or not the applicant or borrower is a member of the ownership structure. Proposed comment 4(a)(30)–2 provides additional guidance on leasehold interests. The comment provides illustrative guidance on identifying paid and unpaid leasehold interests. As discussed in the section-by-section analysis of proposed § 1003.4(a)(9) and proposed comment 4(a)(9)–2, if more than one property is taken, or in the case of an application, proposed to be taken as security for a single covered loan or application, a financial institution may report one of the properties in a single entry on its loan application register or report all of the properties using multiple entries on its loan application register. Regardless of whether the financial institution elects to report the transaction in one entry or more than one entry, the information required by § 1003.4(a)(30) should relate to the property identified under paragraph 4(a)(9). The Bureau is also proposing comment 4(a)(30)–3 to clarify how to report the information required by § 1003.4(a)(30) for a covered loan secured by, or in the case of an application, proposed to be secured by, more than one property.

For the reasons given, pursuant to its authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing § 1003.4(a)(30), which requires financial institutions to report whether the applicant or borrower owns the land on which the manufactured home is or will be located through a direct or indirect ownership interest or leases the land through a paid or unpaid leasehold interest, if the dwelling related to the property identified in § 1003.4(a)(9) is a manufactured home. For the reasons given, the Bureau believes proposed § 1003.4(a)(30) is necessary to carry out HMDA's purposes, because it will provide necessary insight into loan data and allow it to be used to help determine whether financial institutions are serving the housing needs of their communities, since this information can

[468] Apgar, *supra* note 442.

[469] Kevin Jewell, Consumers Union, *Manufactured Housing Appreciation: Stereotypes and Data* (2003), *http://consumersunion.org/pdf/mh/Appreciation.pdf.*

[470] *See* Small Business Review Panel Report at 33, 127.

[471] Katherine MacTavish, et al., *Housing Vulnerability Among Rural Trailer-Park Households,* 13 Georgetown Journal on Poverty Law and Policy 97 (2006).

[472] GAO, *Federal Housing Administration: Agency Should Assess the Effects of Proposed Changes to the Manufactured Home Loan Program,* GAO 07–879, *http://www.gao.gov/new.items/d07879.pdf.*

[473] *See* Small Business Review Panel Report at 56.

[474] Restatement (Second) of Property, Landlord & Tenant § 1.6 (1977).

[475] Katherine MacTavish, *supra* note 453.

[476] Apgar, *supra* note 440.

[477] Sally Ward, et al., Carsey Institute, *Resident Ownership in New Hampshire's ''Mobile Home Parks:'' A Report on Economic Outcomes,* (2010), *http://www.carseyinstitute.unh.edu/publications/Ward_Community_Fund.pdf.*

have important implications for the financing, long-term affordability, and appreciation of the housing at issue.

The Bureau solicits feedback on what information financial institutions collect about an applicant's or borrower's land property interest for manufactured home transactions, and about any potential difficulties associated with complying with the proposed reporting requirement. The Bureau solicits feedback about whether financial institutions consider payments that may be associated with such interests in underwriting, such as lease payments, ground rents, or cooperative fees, and about what information they typically collect regarding such payments. The Bureau specifically solicits feedback regarding reporting land property interest for land that is neither formally leased nor owned, such as family-owned land which the applicant or borrower does not have a direct ownership interest in, and whether the proposal appropriately addresses that scenario. The Bureau also specifically solicits feedback on resident-owned communities and whether the proposal appropriately addresses them. The Bureau solicits feedback on whether this proposal, combined with the proposal regarding manufactured home legal classification, appropriately captures and differentiates the lending products in manufactured home finance; on whether it will allow for communities to assess how financial institutions are meeting the needs of manufactured home owners; and on whether different or additional requirements, enumerations, or guidance is appropriate.

4(a)(31)

Section 1003.4(a)(5) requires financial institutions to report the property type to which a loan or application relates. Financial institutions must report whether the dwelling is a one-to four-family dwelling (other than manufactured housing), a manufactured home, or a multifamily dwelling. Section 1003.4(a)(5) does not require financial institutions to report the number of units in properties. HMDA to section 304(b)(6)(J) permits disclosure of such other information as the Bureau may require. For the reasons discussed below, pursuant to HMDA sections 305(a) and 304(b)(6)(J), the Bureau is proposing to add § 1003.4(a)(31), which requires a financial institution to report the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan. As discussed above, the Bureau is proposing to replace the current property type reporting requirement with construction method and to separate the concept of the number of units from that reporting requirement. Separating the property type requirement into two distinct reporting requirements would better align HMDA reporting with industry practice and will improve the quality of the data.

The Bureau believes that information on the total number of units may improve the utility of HMDA data both for covered loans and applications related to one-to four-family dwellings. The information will allow single family homes to be differentiated from duplexes and similar properties. Multifamily dwellings would be reported with the exact number of units in the property, allowing for more robust analysis of multifamily dwelling finance. The Bureau understands that tracking total number of units is consistent with the MISMO/ULDD data standard.[478] As discussed below, the Bureau is also considering a requirement to report the number of income-restricted units for multifamily dwellings with affordable housing subsidies. This information will be useful when combined with the total number of units in a multifamily dwelling to determine the percentage of subsidized units for mixed-income affordable housing projects. As such, the proposal would help serve the HMDA purposes of assisting the public and government officials to determine whether financial institutions are serving the housing needs of their communities, and it would assist public officials in targeting public investments.

Multifamily housing has always been an essential component of the nation's housing stock. In the wake of the housing crisis, multifamily housing has taken on an increasingly important role in communities, as families have turned to rental housing for a variety of reasons.[479] Many participants at the Board's 2010 Hearings expressed a desire for HMDA to include more specific data about multifamily properties.[480] HMDA highlights the importance of multifamily lending to the recovering housing finance market and to consumers. At the peak of the housing market in 2004, 48,437 originated multifamily loans were reported under HMDA. By 2010 the volume for originated multifamily loans had dropped to 18,974. However, in 2012 multifamily loans rose sharply to 36,761—a much greater rise than the originated loan volume for one- to four-family dwellings. Greater detail about multifamily housing finance may provide additional information about whether financial institutions are serving the housing needs of their communities, and may provide information to assist public official in making decisions about public-sector investments, and to help identify potential fair lending concerns.

The Bureau notes that many of Regulation C's current and proposed reporting requirements may not be relevant for applications or loans related to multifamily dwellings. Financial institutions report that they often have different processes for commercial loans, including loans related to multifamily dwellings, which increases the burden of reporting data for such loans. The Bureau recognizes the potential burden associated with reporting HMDA data for applications and loans related to multifamily dwellings. However, the importance of multifamily housing to the nation's housing stock and feedback from public officials and consumer advocates suggests that potential benefits to the public and public officials may justify these potential burdens, and the Bureau believes that disclosure of this information, pursuant to proposed § 1003.4(a)(31), is necessary to carry out HMDA's purposes.

Proposed instructions in appendix A provide technical details for reporting total individual dwelling units. Proposed comment 4(a)(31)–1 provides guidance for reporting total units for loans involving multiple properties and cross-references comment 4(a)(9)–2.

The Bureau understands that tracking total number of units is consistent with the MISMO/ULDD data standard.[481] However, the Bureau is concerned that some financial institutions may not differentiate total unit counts for two- to

[478] *See* MISMO, *Version 3.3 of the MISMO Residential Reference Model* (Financed Unit Count); Fannie Mae, *Fannie Mae Implementation Guide for Loan Delivery Data,* Appendix A (Oct. 29, 2013), *https://www.fanniemae.com/content/technology_requirements/uldd-implementation-guide-appendix-a.pdf*; Freddie Mac, *Freddie Mac Implementation Guide for Loan Delivery Data,* Appendix A (Jan. 29, 2014), *http://www.freddiemac.com/singlefamily/sell/docs/FRE_IG_selling_system_appendix_a_data_requirements.pdf.*

[479] San Francisco Hearing, *supra* note 133.

[480] San Francisco Hearing, *supra* note 133.

[481] *See* MISMO, *Version 3.3 of the MISMO Residential Reference Model* (Financed Unit Count); Fannie Mae, *Fannie Mae Implementation Guide for Loan Delivery Data,* Appendix A (Oct. 29, 2013), *https://www.fanniemae.com/content/technology_requirements/uldd-implementation-guide-appendix-a.pdf*; Freddie Mac, *Freddie Mac Implementation Guide for Loan Delivery Data,* Appendix A (Jan. 29, 2014), *http://www.freddiemac.com/singlefamily/sell/docs/FRE_IG_selling_system_appendix_a_data_requirements.pdf.*

four-family dwellings. During the Small Business Review Panel process, some small entity representatives preferred distinguishing only between one- to four-family dwellings and multifamily dwellings with no total unit count; others preferred distinguishing between single family dwellings, two- to four-family dwellings, and multifamily dwellings; and still others suggested ranges of units for multifamily dwellings.[482] The Small Business Review Panel recommended that the Bureau seek public comment on appropriate alternatives to reporting the total number of dwelling units, including whether financial institutions should report ranges of the number of units.[483] Based on this feedback and consistent with the recommendation of the Small Business Review Panel, the Bureau solicits feedback on appropriate alternatives to reporting the total number of dwelling units, including whether financial institutions should report ranges of the number of units such as one, two to four, and five or more.

4(a)(32)

Neither HMDA nor Regulation C requires financial institutions to report information about the number of dwelling units in multifamily dwellings that are income-restricted pursuant to affordable housing programs. Section 304(b) of HMDA permits disclosure of such other information as the Bureau may require.[484] For the reasons discussed below, pursuant to HMDA sections 305(a) and 304(b)(6)(J), the Bureau is proposing § 1003.4(a)(32), which requires financial institutions to collect and report information on the number of individual dwelling units in multifamily dwellings that are income-restricted pursuant to Federal, State, or local affordable housing programs.

Affordable multifamily housing is an important component of the housing market for low- and moderate-income consumers and an important investment of Federal, State, and local government resources. A December 2013 study by the Harvard Joint Center on Housing Studies noted that in 2012 approximately 21.1 million households were cost-burdened (*i.e.,* spending more than 30 percent of income on housing), and estimated that, while 19.3 million households were eligible for affordable housing assistance, only 4.6 million received such assistance.[485] For these reasons, and as explained below, the Bureau believes that additional information about whether multifamily housing loans are related to multifamily dwellings with affordability restrictions would further HMDA's purposes, in part by providing more useful information about these vital public resources, and thereby assisting public officials in distributing public-sector investment so as to attract private investment to areas where it is needed.

The Bureau believes that data reported pursuant to this proposal could be combined with other existing publically available data to obtain additional detail on multifamily dwelling affordability. For example, HUD maintains publically available data on Low-Income Housing Tax Credit multifamily dwellings;[486] publically available data on FHA-insured multifamily dwellings, which includes information on whether the insured dwelling loan included affordability components from Low-Income Housing Tax Credits or tax exempt bonds;[487] and information about contracts for Section 8-assisted multifamily dwellings.[488] Other organizations maintain or aggregate data on multifamily affordable housing which could be utilized with HMDA data provided by this proposal.[489]

The Bureau recognizes that reporting information regarding affordability restrictions may entail new burden for some financial institutions that do not ordinarily make loans to affordable housing properties and may be unfamiliar with these programs. Conversely, the Bureau understands that many financial institutions specialize in this kind of lending or have special programs designed for such lending and believes that such institutions may have this information readily available.

Based on these considerations, the Bureau is proposing to require financial institutions to collect and report information on the number of individual dwellings units that are income-restricted pursuant to Federal, State, or local affordable housing programs.

The proposal adds technical instructions for reporting in appendix A. Proposed instruction 4(a)(32)–1 provides general reporting information. Proposed instruction 4(a)(32)–1.a specifies to report ''NA'' if the dwelling is not a multifamily dwelling. Proposed instruction 4(a)(32)–1.b specifies to report ''0'' for a multifamily dwelling that contains no individual dwelling units subject to affordable housing income restrictions.

The Bureau is also proposing to add several comments. Proposed comment 4(a)(32)–1 clarifies that income-restricted affordable housing units are generally subject to income level restrictions defined by area median income and provided by HUD or another agency responsible for implementing the applicable affordable housing program. The comment provides that such restrictions are frequently part of programs that provide public funds, special tax treatment, or density bonuses for affordable housing purposes. The comment provides that rent control or rent stabilization and acceptance of Housing Choice Vouchers or other portable housing assistance are not considered to create income-restricted affordable housing individual dwelling units for purposes of proposed § 1003.4(a)(32).

Proposed comment 4(a)(32)–2 provides illustrative examples of Federal programs and funding sources that may result in individual dwellings units that are reportable under § 1003.4(a)(32). Proposed comment 4(a)(32)–3 provides illustrative examples of State and local programs and funding sources that may result in individual dwelling units that are reportable under § 1003.4(a)(32). Proposed comment 4(a)(32)–4 provides guidance for reporting income-restricted units for loans involving multiple properties and cross-references comment 4(a)(9)–2.

The Bureau considered whether to require financial institutions to report the specific affordable housing program related to the multifamily dwelling, or the area median income level at which units in the multifamily dwelling are considered affordable. However, the Bureau believes that the large variety of Federal, State, and local affordable housing programs would make implementing a more specific reporting requirement difficult and burdensome. Similarly, reporting income affordability level for units in the multifamily dwelling may be unduly burdensome. The Bureau understands that many affordable multifamily dwellings

[482] *See* Small Business Review Panel Report at 32, 99, 127.

[483] *See* Small Business Review Panel Report at 42.

[484] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

[485] Harvard University Joint Center for Housing Studies, *America's Rental Housing: Evolving Market and Needs* (Dec. 9, 2013), *http://www.jchs.harvard.edu/americas-rental-housing.*

[486] Low-Income Housing Tax Credit Database, *http://lihtc.huduser.org/.*

[487] Insured Multifamily Mortgages Database, *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/comp/rpts/mfh/mf_f47.*

[488] Multifamily Assistance and Section 8 Contracts Database, *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/exp/mfhdiscl.*

[489] *See, e.g.,* the National Housing Preservation Database, *http://www.preservationdatabase.org/.*

include multiple layers of affordable housing program subsidies in development and long-term financing, further complicating a specific reporting requirement.

During the Small Business Review Panel process, small entity representatives generally stated that information concerning multifamily affordable housing is not generally disclosed during the loan process and may be labor-intensive to obtain.[490] The Small Business Review Panel recommended that the Bureau seek public comment concerning the extent to which information about multifamily affordable housing programs is available in loan files, how financial institutions currently use this information, and the costs and other burdens of obtaining these data.[491] Consistent with the recommendation of the Small Business Review Panel, the Bureau solicits feedback on the extent to which information about multifamily affordable housing programs is available in loan files, how financial institutions currently use this information, and the costs and other burdens of obtaining these data.

The Bureau solicits feedback generally about this requirement. The Bureau also solicits feedback on whether additional information about the program or type of affordable housing would be valuable and serve HMDA's purposes, and about the burdens associated with collecting such information compared with the burdens of the proposal. Comment is solicited on the following points: whether the Bureau should require reporting of information concerning programs targeted at specific groups (such as seniors or persons with disabilities); whether income restrictions above a certain threshold should be excluded for reporting purposes (such as income restrictions above the area median income); whether it would be appropriate to simplify the requirement and report only whether a multifamily dwelling contains a number of income-restricted units above a certain percentage threshold; whether financial institutions should be required to report the specific affordable housing program or programs; and whether financial institutions should be required to report the area median income level at which units in the multifamily dwelling are considered affordable. The Bureau also solicits feedback on whether the burden on financial institutions may be reduced by providing instructions or guidance specifying that institutions only to report income-restricted dwelling units that they considered or were aware of in originating, purchasing, or servicing the loan.

4(a)(33)

Regulation C does not require financial institutions to report information concerning the application channel of covered loans and applications. HMDA section 304(b)(6)(E) requires financial institutions to disclose ''the channel through which application was made, including retail, broker, and other relevant categories,'' for each covered loan and application.[492] Proposed § 1003.4(a)(33) implements this requirement by requiring financial institutions to record certain information related to the application channel of each reported origination and application.

Congress added the requirement to record information about the application channel to the HMDA data collection because it believed that it would enrich HMDA data. For example, Congress expressed concerns that the wholesale channel may have presented greater risks to applicants than the retail channel during the financial crisis.[493] Participants in the Board's 2010 Hearings also urged for the addition of information about the application channel to the HMDA data collection.[494] The loan terms and rates that a financial institution offers an applicant may depend on how the applicant submits the application (*i.e.,* whether through the retail, wholesale, or correspondent channel).[495] Thus, identifying transactions by channel may help to interpret loan pricing and other information in the HMDA data.

The mortgage industry generally operates through three primary application channels: retail, wholesale, and correspondent. These channels are often characterized by three factors: (1) which institution received the application directly from the applicant, (2) which institution made the credit decision, and (3) in which institution's name the loan closed (*i.e.,* to whom the obligation initially was payable). The term ''retail channel'' generally refers to situations where the applicant submits the application directly to the financial institution that makes the credit decision on the application and to whom the obligation is initially payable.

On the other hand, the term ''wholesale channel,'' which is also referred to as the ''broker channel,'' generally refers to situations where the applicant submits the application to a mortgage broker and the broker sends the application to a financial institution that makes the credit decision on the application and to whom the obligation is initially payable. The wholesale channel may also include some arrangements, such as table funding, in which the obligation is not initially payable to the financial institution that makes the credit decision.

The third channel includes correspondent arrangements between two financial institutions. A purchasing financial institution may have different arrangements with correspondents and may or may not delegate underwriting authority to a correspondent. A correspondent with delegated underwriting authority processes an application much like the retail channel described above. The correspondent receives the application directly from the applicant, makes the credit decision, closes the loan in its name, and immediately or within a short period of time sells the loan to another institution. Correspondents with nondelegated authority operate more like a mortgage broker in the wholesale channel. These correspondents receive the application from the applicant, but prior to closing involve a third-party institution that makes the credit decision. The transaction generally closes in the name of the correspondent, which immediately or within a short period of time sells the loan to the third-

[490] *See* Small Business Review Panel Report at 42.

[491] *Id.*

[492] Dodd-Frank Act, section 1094(3), 12 U.S.C. 2803(b)(6)(E).

[493] *See, e.g.,* House Consideration of HR 4173, 155 Cong. Record H 14430 (daily ed. Dec. 9, 2009) (Cong. Ellison (MN)) (''And nearly one in four U.S. borrowers currently owes more on their mortgage than their home is worth. This, in large measure, happened, Madam Chair, because mortgage brokers, unregulated lured families with low teaser-rate interest rates that later skyrocketed to unaffordable levels, hidden fees, and charges in incomprehensible terms and conditions that brought on the housing crisis and undermined the financial system.''); Senate Consideration of S 3217, 156 Cong. Rec. S 3323 (daily ed. May 6, 2010) (Sen. LeMieux (FL)) (''One is we know mortgages were given to people who should not have had mortgages-people who had no income and no jobs. They called them ninja loans-no income, no jobs. There were a lot of them in my State of Florida. Why were they written? Many of them were written because they were written by mortgage brokers and banks that did not have to retain any of those mortgages on their books. There were no underwriting standards. They could just ship them off. They had no skin in the game and no responsibility.'').

[494] *See, e.g.,* Chicago Hearing, *supra* note 137 (remarks of Janis Bowdler, Deputy Director of the Wealth Building Project, National Council of La Raza); *id.* (remarks of Michael Collins, Researcher, University of Wisconsin).

[495] *See, e.g.,* Keith Ernst, et al, ''Steered Wrong: Brokers, Borrowers, and Subprime Loans,'' Center for Responsible Lending, April 8, 2008, *available at http://www.responsiblelending.org/mortgage-lending/research-analysis/steered-wrong-brokers-borrowers-and-subprime-loans.pdf.*

party institution that made the credit decision.[496]

Collecting information about the application channel presents challenges due to the complexities of the mortgage market and HMDA's reporting requirements. As discussed above in the section-by-section analysis of proposed § 1003.4(a), the financial institution that made the credit decision prior to closing reports the application or origination, regardless of whether the loan closed or would have closed in that institution's name. Since retail lenders, mortgage brokers, and correspondent lenders all may make a credit decision on an application, financial institutions that report HMDA data include financial institutions acting in all of those roles. In addition, each financial institution may play a different role in different transactions, *e.g.,* act as a retail lender in one transaction and as a correspondent lender in another transaction. Furthermore, financial institutions may characterize the different application channels differently and may not routinely collect information about application channels.

The Bureau recognizes the potential challenges and burdens with collecting information about application channels. However, the Bureau believes that the potential benefits to the public and to public officials may justify these potential burdens. The Bureau also believes that disclosure of information about application channels is an appropriate method of implementing HMDA section 304(b)(6)(E) in a manner that carries out HMDA's purposes. Based on these considerations, the Bureau proposes to implement the Dodd-Frank amendment by requiring financial institutions to collect and report information on whether the application was submitted directly to the financial institution reporting the loan or application and on whether the covered loan closed or, in the case of an application, would have closed in the name of the financial institution reporting the covered loan or application. The Bureau believes that this approach implements the relevant Dodd-Frank Act amendment to HMDA in a manner that carries out HMDA's purposes, without imposing undue burden.

Accordingly, pursuant to HMDA sections 304(b)(6)(E) and 305(a), the Bureau proposes § 1003.4(a)(33), which provides that, except for purchased covered loans, a financial institution is required to report the following information about the application channel of the covered loan or application: Whether the applicant or borrower submitted the application for the covered loan directly to the financial institution; and whether the obligation arising from the covered loan was or, in the case of an application, would have been initially payable to the financial institution. The Bureau solicits feedback regarding whether this proposed requirement is appropriate generally and regarding alternative ways to collect application channel information.

To facilitate compliance, the Bureau proposes to except purchased covered loans from this requirement. The Bureau believes that reporting of the information required by proposed § 1003.4(a)(33) for purchased covered loans would not provide valuable information because there would likely be little variation in the information reported (*i.e.,* a financial institution reporting a purchase of a covered loan would nearly always report that the application was not submitted directly to the financial institution and that the covered loan did not close in the name of the financial institution). Accordingly, the Bureau believes that it may not be appropriate to burden financial institutions with the requirement to report the information required by proposed § 1003.4(a)(33) for purchased covered loans. The Bureau solicits feedback on whether this exception is appropriate.

During the Small Business Review Panel process, small entity representatives expressed concerns about the burden associated with collecting application channel information given the complexities of their business practices.[497] The Panel recommended that the Bureau seek comment on the most effective means of collecting information about the application channel of the reported covered loans and applications.[498] Consistent with the Small Business Review Panel's recommendation, the Bureau seeks feedback on whether alternative ways of collecting application channel information would achieve the statutory requirement in a more efficient manner.

The Bureau is also proposing commentary to clarify the reporting requirements. Proposed comment 4(a)(33)–1 contains several examples that illustrate when an application is submitted directly to a financial institution. Proposed comment 4(a)(33)–2 clarifies that proposed § 1003.4(a)(33) requires financial institutions to report whether the obligation arising from a covered loan or application was or would have been initially payable to the institution. Proposed comment 4(a)(33)–3 explains how to report the application channel information if the financial institution is reporting the credit decision made by an agent consistent with comment 4(a)–5. Proposed additions to appendix A provide technical instructions regarding how to enter the application channel data on the loan application register.

4(a)(34)

Regulation C does not require financial institutions to report information regarding a loan originator identifier. HMDA section 304(b)(6)(F) requires the reporting of, ''as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the [Secure and Fair Enforcement for] Mortgage Licensing Act of 2008'' (S.A.F.E. Act).[499] Proposed § 1003.4(a)(34) implements this requirement by requiring financial institutions to report, for a covered loan or application, the unique identifier assigned by NMLSR for the mortgage loan originator, as defined in Regulation G § 1007.102 or Regulation H § 1008.23, as applicable.

The S.A.F.E. Act provides for a unique identifier under the NMLSR for residential mortgage loan originators.[500] The S.A.F.E. Act requirements are implemented by the Bureau's Regulations G and H.[501] The Bureau believes that implementing the Dodd-Frank Act requirement for a mortgage loan originator unique identifier will improve HMDA data and assist in identifying and addressing potential issues, such as training deficiencies with specific loan originators, as well as strengthen the transparency of the residential mortgage market. The ability to identify an individual who has primary responsibility in the transaction will enable new dimensions of analysis, including being able to link individual mortgage loan originators or groups of mortgage loan originators to a financial institution. The NMLSR mortgage loan originator unique identifier also provides a vehicle for industry to self-test and determine appropriate corrective measures when it identifies

[496] *See generally,* 78 FR 11280, 11284 (Feb. 15, 2013); CFPB Examination Procedure, *http://files.consumerfinance.gov/f/201401_cfpb_mortgage-origination-exam-procedures.pdf.*

[497] *See, e.g.,* Small Business Review Panel Report at 26.

[498] *See id* at 39–40.

[499] Dodd-Frank Act section 1094(3)(A)(iv), 12 U.S.C. 2803(b)(6)(F).

[500] 12 U.S.C. 5107(c).

[501] 12 CFR parts 1007 (Regulation G) and 1008 (Regulation H).

individual misconduct through self-analysis of HMDA data.

A requirement to collect and report a mortgage loan originator unique identifier may impose some burden on financial institutions. However, the Bureau believes that the potential benefits to the public and public officials justify these potential burdens, and the Bureau believes that disclosure of this information is an appropriate method of implementing HMDA section 304(b)(6)(F) and carrying out HMDA's purposes. This information is provided on certain loan documents pursuant to the loan originator compensation requirements under TILA.[502] This information will also be provided on the TILA–RESPA integrated disclosure form starting on August 1, 2015.[503] As a result, the NMLSR unique identifier for the mortgage loan originator will be readily available to HMDA reporters at little to no ongoing cost. Accordingly, the Bureau is proposing § 1003.4(a)(34), which provides that a financial institution shall report, for a covered loan or application, the unique identifier assigned by the NMLSR for the mortgage loan originator as defined in Regulation G § 1007.102 or Regulation H § 1008.23, as applicable.

Proposed instruction 4(a)(34)–1 in appendix A provides technical instructions regarding how to enter the NMLSR ID on the loan application register. This proposed instruction provides that a financial institution must enter the NMLSR mortgage loan originator unique identifier as set forth in the S.A.F.E. Act, as implemented by Regulation G (S.A.F.E. Mortgage Licensing Act—Federal Registration of Residential Mortgage Loan Originators), 12 CFR part 1007, and Regulation H (S.A.F.E. Mortgage Licensing Act—State Compliance and Bureau Registration System), 12 CFR part 1008. Proposed instruction 4(a)(34)–2 in appendix A provides that, in the event that the mortgage loan originator is not required to obtain and has not been assigned an NMLSR ID, a financial institution must enter ''NA'' for not applicable.

Proposed comment 4(a)(34)–1 discusses the requirement that a financial institution report the NMLSR ID for the mortgage loan originator and describes the NMLSR ID. Proposed comment 4(a)(34)–2 discusses the requirement that a financial institution report ''NA'' for not applicable when the mortgage loan originator is not required to obtain and has not been assigned an NMLSR ID. Proposed comment 4(a)(34)–2 also provides that, if a mortgage loan originator has been assigned an NMLSR ID, a financial institution complies with proposed § 1003.4(a)(34) by reporting the mortgage loan originator's NMLSR ID regardless of whether the mortgage loan originator is required to obtain an NMLSR ID for the particular transaction being reported by the financial institution. The proposed comment provides an illustrative example.

Proposed comment 4(a)(34)–3 explains that, in the event that more than one individual meets the definition of a mortgage loan originator, as defined in Regulation G § 1007.102 or Regulation H § 1008.23, for a covered loan or application, a financial institution complies with proposed § 1003.4(a)(34) by reporting the NMLSR ID of the individual mortgage loan originator with primary responsibility for the transaction.[504] The proposed comment explains that a financial institution that establishes and follows a reasonable, written policy for determining which individual mortgage loan originator has primary responsibility for the reported transaction complies with proposed § 1003.4(a)(34).

During the Small Business Review Panel process, the small entity representatives generally supported the proposal to require the NMLSR identifier for the mortgage loan originator involved in the transaction.[505] One small entity representative noted that the information is already collected on RESPA forms, but urged the Bureau to specify clearly when the identifier must be provided.[506] Another small entity representative, however, expressed concern about the potential unmerited negative impact on loan originators who are identified with a significant number of loans that fail for reasons other than inadequate underwriting.[507] With respect to each of the unique identifiers specified in the Dodd-Frank Act, including the mortgage loan originator identifier, the Small Business Review Panel recommended that the Bureau seek comment on each identifier under consideration and on whether each of the identifiers should be required for all entries on the loan application register, or only for loan originations and purchases.[508] Consistent with the Small Business Review Panel's recommendations, the Bureau solicits feedback on its proposal requiring financial institutions to report, for a covered loan or application, the unique identifier assigned by the NMLSR for the mortgage loan originator. In addition, the Bureau specifically solicits comment on whether the mortgage loan originator unique identifier should be required for all entries on the loan application register, including applications that do not result in originations, or only for loan originations and purchases.

4(a)(35)

Currently, Regulation C does not require financial institutions to report information regarding recommendations received from automated underwriting systems, and HMDA does not expressly require this itemization. Section 304(b) of HMDA permits the disclosure of ''such other information as the Bureau may require.'' [509] For the reasons discussed below, the Bureau believes it may be appropriate to require financial institutions to report information related to the automated underwriting system used to evaluate the application and the recommendation generated by that system.

Financial institutions often use an automated underwriting system (AUS) to evaluate an applicant's credit risk. As part of the Board's 2010 Hearings, feedback indicated that HMDA data would be improved if institutions collected and reported the automated underwriting system used in evaluating an application and the recommendation generated by that system.[510] For example, the Federal Trade Commission stated that ''[t]his information is often crucial to isolating and examining discretion in a lender's loan approval and denial decisionmaking.'' [511] The Bureau believes that requiring financial institutions to collect and report the automated underwriting system used to evaluate an application, and the recommendation generated by that system, may further the purposes of HMDA. Information about automated underwriting would help the public and public officials evaluate whether financial institutions are serving the housing needs of their communities and assist in identifying possible discriminatory lending patterns by allowing information about similar

[502] Regulation Z § 1026.36(g).

[503] Regulation Z § 1026.37(k).

[504] The Bureau's 2013 Final Loan Originator Rule and 2013 TILA-RESPA Final Rule also provide standards for identifying the appropriate loan officer or loan originator where more than one individual is listed in the loan documents or disclosure documents, as applicable. *See* Regulation Z § 1026.36(g), comment 36(g)(1)(ii)–1; § 1026.37(k), comment 37(k)–3.

[505] *See* Small Business Review Panel Report at 26.

[506] *Id.*

[507] *Id.*

[508] *Id.* at 39.

[509] Dodd-Frank Act section 1094(3)(A)(iv), 12 U.S.C. 2803(b)(6)(J).

[510] *E.g.,* Washington Hearing, *supra* note 130.

[511] Comment Letter of Donald Clark, Secretary, Federal Trade Commission, December 3, 2010.

loans and applications to be compared and analyzed appropriately. The Bureau believes that AUS data could improve the accuracy of fair lending analysis used to identify potential underwriting disparities. By including key information considered by financial institutions in their underwriting decisions, financial regulators can more effectively monitor institutions for possible discrimination and reduce the likelihood of false positives that increase regulatory costs for both institutions and regulators.

However, collecting and reporting data on automated underwriting systems may pose some concerns. The automated underwriting systems used by financial institutions to evaluate applications may vary between institutions, as may the recommendations generated by those systems. Financial institutions may also have different policies and procedures for how they use automated underwriting systems and recommendations in the credit decision. In addition, automated underwriting systems may evolve over time. Financial institutions may also use multiple automated underwriting systems to evaluate an application and may consider multiple recommendations generated by those systems in their underwriting process. Requiring the collection of information about automated underwriting systems may impose burden on financial institutions.

Notwithstanding the concerns associated with collecting and reporting information about automated underwriting systems, the potential benefits to the public and public officials may justify any potential burden. The Bureau believes that the collection and reporting of information related to automated underwriting systems, pursuant to proposed § 1003.4(a)(35), is necessary to carry out HMDA's purposes. This data would assist in understanding a financial institution's underwriting decisionmaking and would also provide useful information for fair lending examinations. Based on these considerations and pursuant to its authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing § 1003.4(a)(35)(i), which provides that except for purchased covered loans, a financial institution shall report the name of the automated underwriting system it used to evaluate the application and the recommendation generated by that automated underwriting system. In addition, the Bureau is proposing § 1003.4(a)(35)(ii), which defines an automated underwriting system as an electronic tool developed by a securitizer, Federal government insurer, or guarantor that provides a recommendation regarding whether the application is eligible to be purchased, insured, or guaranteed by that securitizer, Federal government insurer, or guarantor. The Bureau solicits feedback regarding whether these proposed requirements are appropriate and whether there are alternative ways to collect information about automated underwriting systems. For example, financial institutions could report the recommendation generated by the automated underwriting system used to evaluate the application in defined categories, such as ''recommended approval'' or ''recommended referral for further underwriting.'' In addition, the Bureau specifically solicits feedback regarding whether limiting the definition of an automated underwriting system as proposed in § 1003.4(a)(35)(ii) to one that is developed by a securitizer, Federal government insurer, or guarantor is appropriate. The Bureau is not proposing commentary to proposed § 1003.4(a)(35)(ii) because the Bureau believes that the proposed definition is straightforward and clear. However, the Bureau solicits feedback regarding whether commentary is needed to clarify this proposed definition or to facilitate compliance.

The Bureau believes that financial institutions that use automated underwriting systems to evaluate applications will be able to easily identify the system used and the recommendation generated by that system for purposes of HMDA reporting. However, the Bureau has excluded purchased covered loans from the requirements of proposed § 1003.4(a)(35) because the Bureau anticipates that it could be burdensome for financial institutions that purchase covered loans to identify the AUS data. The Bureau solicits feedback on whether this exclusion is appropriate.

During the Small Business Review Panel process, the small entity representatives indicated that, in general, their financial institutions use manual underwriting procedures, and reporting AUS recommendations could provide an incomplete and distorted picture of loan transactions, triggering unnecessary fair lending scrutiny.[512] A number of small entity representatives expressed concern that, if financial institutions are required to report AUS results, there would be an increase in the ''false positive'' indicators of fair lending violations.[513] Small entity representatives were particularly concerned about AUS results that do not align with the action taken for reasons unrelated to underwriting, and the potential costs and negative publicity that may result.[514] A number of small entity representatives also questioned the value of AUS information and whether the HMDA purposes the information would serve could be realized in other ways.[515] The Small Business Review Panel recommended that the Bureau solicit additional information in the proposed rule on the extent to which AUS-generated information is used by small financial institutions and how that information is used in credit decisions.[516] The Small Business Review Panel also recommended that the Bureau seek public comment on whether any method of reporting on the use of an automated underwriting system that is included in the proposed rule is consistent with the current practices of small financial institutions.[517] Consistent with the Small Business Review Panel's recommendations, the Bureau solicits feedback on these issues.

The Bureau is also proposing technical instructions in appendix A regarding how to enter the AUS data on the loan application register. Proposed instruction 4(a)(35)–1 provides that a financial institution must indicate the name of the automated underwriting system it used to evaluate the application by entering the applicable code from a list. The Bureau solicits feedback regarding whether this proposed instruction is appropriate generally, and specifically solicits feedback regarding whether the proposed instruction would be less burdensome if the list of systems were modified by, for example, either removing or adding systems.

Proposed instruction 4(a)(35)–2 provides that a financial institution completing the loan application register must indicate the AUS recommendation generated by the automated underwriting system that it used to evaluate the application by entering the applicable code from a list. The Bureau solicits feedback regarding whether this proposed instruction is appropriate generally, and specifically solicits feedback regarding whether the proposed instruction would be less burdensome if the list of AUS recommendations were modified by, for example, either removing or adding AUS recommendations. In addition, the

[512] *See* Small Business Review Panel Report at 39.

[513] *Id.* at 26.

[514] *Id.*

[515] *Id.*

[516] *Id.* at 39.

[517] *Id.*

Bureau is proposing to use two free-form text fields for automated underwriting system information (for ''Other'' automated underwriting systems and recommendations, respectively) to account for the variety of systems and recommendations that currently exist or that may exist in the future. The Bureau solicits feedback on the proposed requirement that, when a financial institution selects ''Other'' for automated underwriting system and recommendation, the financial institution must enter the name of the AUS used to evaluate the application and the recommendation generated by that AUS.

Proposed comment 4(a)(35)–1 discusses the requirement that a financial institution report the AUS recommendation generated by the automated underwriting system used by the financial institution to evaluate the application and provides an illustrative example. A financial institution complies with proposed § 1003.4(a)(35) by reporting an AUS recommendation if the recommendation was considered by the financial institution in its underwriting process. For example, when a financial institution takes into account a combination of an AUS recommendation and manual underwriting in making the credit decision, the financial institution has considered the AUS recommendation in its underwriting process and reports the AUS recommendation.

Proposed comment 4(a)(35)–2.i discusses the requirement that a financial institution report the name of the automated underwriting system used by the financial institution to evaluate the application, explains which automated underwriting system to report if a financial institution uses multiple automated underwriting systems to evaluate an application, and provides an illustrative example. When a financial institution uses more than one automated underwriting system to evaluate an application, the financial institution complies with proposed § 1003.4(a)(35) by reporting the name of the AUS developed by a securitizer, Federal government insurer, or guarantor that was used closest in time to the credit decision. For example, when a financial institution processes an application through the automated underwriting system of two different government-sponsored enterprises, such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the financial institution complies with proposed § 1003.4(a)(35) by reporting the name of the AUS that was used closest in time to the credit decision. If a financial institution processes an application through multiple AUSs at the same time, the financial institution complies with proposed § 1003.4(a)(35) by reporting the name of the AUS that generated the recommendation that was a factor in the credit decision.

Proposed comment 4(a)(35)–2.ii explains which AUS recommendation to report if a financial institution obtains multiple AUS recommendations and provides an illustrative example. When a financial institution obtains two or more AUS recommendations for an applicant or borrower that are generated by a single or multiple AUSs developed by a securitizer, Federal government insurer, or guarantor, the financial institution complies with proposed § 1003.4(a)(35) by reporting the AUS recommendation generated closest in time to the credit decision. For example, when a financial institution receives a recommendation from an automated underwriting system that requires the financial institution to manually underwrite the loan, but in addition the financial institution subsequently processes the application through a different automated underwriting system that also generates a recommendation, the financial institution complies with proposed § 1003.4(a)(35) by reporting the AUS recommendation generated closest in time to the credit decision. If a financial institution obtains multiple AUS recommendations at the same time, the financial institution complies with proposed § 1003.4(a)(35) by reporting the AUS recommendation that was a factor in the credit decision.

Proposed comment 4(a)(35)–3 explains when a financial institution should report ''not applicable'' for AUS data and provides examples. If a financial institution does not use an AUS developed by a securitizer, Federal government insurer, or guarantor to evaluate the application, the financial institution complies with proposed § 1003.4(a)(35) by reporting ''not applicable.'' For example, if a financial institution only manually underwrites an application and does not consider an AUS recommendation in its underwriting process, the financial institution complies with proposed § 1003.4(a)(35) by reporting ''not applicable.'' Also, if the file was closed for incompleteness or the application was withdrawn before a credit decision was made, the financial institution complies with proposed § 1003.4(a)(35) by reporting ''not applicable.''

4(a)(36)

Neither HMDA nor Regulation C requires a financial institution to report whether a reportable transaction is a reverse mortgage. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[518] For the reasons discussed below, the Bureau is proposing to require financial institutions to identify whether a reportable transaction is a reverse mortgage.

Currently, although reverse mortgages that are home purchase loans, home improvement loans, or refinancings are reported, financial institutions are not required to separately identify if a reported transaction is a reverse mortgage. Some of the current reporting requirements, and several of the proposed requirements discussed above, do not apply to reverse mortgages. The Bureau has received feedback indicating that financial institutions often spend significant amounts of time during the reporting process dealing with submission errors related to inapplicable fields. Requiring financial institutions to identify whether a reportable transaction is a reverse mortgage would allow the Bureau to develop a submission system that automatically removes inapplicable fields. This should facilitate compliance by reducing the amount of time financial institutions spend on submitting reverse mortgage data.

Identifying reverse mortgages may also improve the usefulness of the data. Communities concerned about homeownership stability may find the data useful because reverse mortgages reduce a homeowner's equity over time. Also, as reverse mortgages are commonly obtained by persons approaching retirement age, communities and public officials may use the data to ascertain whether financial institutions are fulfilling their obligations to all members of their communities. Furthermore, improved reverse mortgage data would assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

For the reasons discussed above, the Bureau believes that it may be appropriate to improve the HMDA data related to reverse mortgages. Pursuant to its authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing § 1003.4(a)(36), which provides that a financial institution shall record whether the covered loan is, or the application is for, a reverse mortgage, and whether the reverse

[518] *See* Dodd-Frank Act section 1094(3)(A)(iv).

mortgage is an open- or closed-end transaction. The Bureau solicits feedback regarding whether this proposed requirement is appropriate. While the Bureau is not proposing commentary applicable to proposed § 1003.4(a)(36), the Bureau solicits feedback regarding whether commentary would help clarify or illustrate the requirements of this proposed reporting requirement. Proposed instruction 4(a)(36)–1 provides technical requirements for completing the loan application register, stating that a financial institution should enter on the loan application register whether the covered loan is a reverse mortgage by entering one of three codes, and identifies the applicable transactions for each code.

During the Small Business Review Panel process, small entity representatives were not generally concerned about a proposed requirement to identify reverse mortgages.[519] The Small Business Review Panel recommended that the Bureau seek comment on any costs and other burdens associated with existing or potential HMDA requirements related to reverse mortgages.[520] Consistent with the Small Business Review Panel's recommendation, the Bureau solicits feedback regarding any costs and burdens associated with this proposed requirement regarding reverse mortgages, as well as the costs and burdens generally associated with Regulation C requirements related to reverse mortgages.

4(a)(37)

Currently, neither HMDA nor Regulation C requires a financial institution to identify whether a reportable transaction is a home-equity line of credit. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[521] For the reasons discussed below, the Bureau believes that it may be appropriate to require financial institutions to separately identify reported transactions that are home-equity lines of credit.

Although home-equity lines of credit currently may be reported as home purchase loans or home improvement loans, users of the HMDA data cannot identify which of those loans are home-equity lines of credit. The Bureau has received feedback indicating that the HMDA data would be improved by requiring financial institutions to identify whether a reportable transaction is a home-equity line of credit. Studies suggest that in the years leading up to the financial crisis home-equity line of credit lending was correlated with real estate speculation, which may have increased prices in local housing markets prior to the collapse.[522] Thus, clarifying the HMDA data in this manner would help communities and public officials better understand local lending practices and patterns. Furthermore, as home-equity lines of credit tend to be priced differently than other reportable transactions, being able to identify them would help clarify the data and facilitate effective data analysis. In addition, the Bureau believes that financial institutions may employ different policies, procedures, and systems for home-equity line of credit lending, so requiring financial institutions to identify these transactions would facilitate compliance by aligning with standard business practices. Furthermore, as the Bureau is also proposing to include dwelling-secured commercial lines of credit, the Bureau believes that differentiating between transactions would improve the usefulness of the data.

For the reasons discussed above, pursuant to its authority under sections 305(a) and 304(b)(6)(J) of HMDA, the Bureau is proposing § 1003.4(a)(37), which provides that a financial institution shall report whether the covered loan is, or the application is for, an open-end line of credit, and also whether the open-end line of credit is a home-equity line of credit. The Bureau solicits feedback regarding whether this proposed requirement is appropriate. While the Bureau is not proposing commentary applicable to proposed § 1003.4(a)(37), the Bureau solicits feedback regarding whether commentary would help clarify or illustrate the requirements of this proposed reporting requirement. Proposed instruction 4(a)(37)–1 provides technical requirements for completing the loan application register by identifying the applicable transactions for one of three codes.

4(a)(38)

Currently, neither HMDA nor Regulation C contains requirements related to whether a loan would be considered a qualified mortgage under Regulation Z. Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[523] For the reasons discussed below, the Bureau believes that it may be appropriate to require financial institutions to report a covered loan's qualified mortgage status under Regulation Z.

The ability-to-repay and qualified mortgage provisions of Regulation Z were intended to address several of the harmful underwriting practices that were used in the years leading up to the financial crisis. For this reason, community groups and public officials may find useful information related to loans that are exempt from the ability-to-repay requirements, subject to the requirements, or are considered qualified mortgages under the requirements. Furthermore, this information may be particularly useful for public officials at the U.S. Department of Housing and Urban Development, the U.S. Department of Veterans Affairs, and the U.S. Department of Agriculture, as these agencies administer programs and promulgate regulations related to the ability-to-repay standards of Regulation Z. In addition, the Bureau has received feedback that information related to qualified mortgage status is becoming a part of the mortgage industry data standards. Thus, this information is consistent with the regular business practices of financial institutions and should not be particularly burdensome.

For these reasons, the Bureau believes that it may be appropriate to require financial institutions to report data regarding whether a covered loan is a qualified mortgage under Regulation Z. Accordingly, pursuant to its authority under sections 305(a) and 304(b)(5)(D) of HMDA, the Bureau is proposing § 1003.4(a)(38), which provides that a financial institution shall report whether the covered loan is subject to the ability-to-repay provisions of Regulation Z, 12 CFR 1026.43, and whether the covered loan is a qualified mortgage, as described under 12 CFR 1026.43(e) or (f). The Bureau solicits feedback regarding whether this proposed requirement is appropriate, whether this proposed requirement would result in more useful data, and whether this proposed requirement would impose additional burdens or result in additional challenges that the Bureau has not considered.

During the Small Business Review Panel process, several small entity representatives expressed concerns about a potential requirement to report a covered loan's qualified mortgage status.[524] The Small Business Review

[519] *See* Small Business Review Panel Report at 40, 90, 129, and 132.

[520] *See id.* at 40.

[521] *See* Dodd-Frank Act section 1094(3)(A)(iv).

[522] *See supra* note 241, 242.

[523] *See* Dodd-Frank Act section 1094(3)(A)(iv).

[524] *See* Small Business Review Panel Report at 40, 57, 80, 85, 103–104, and 129.

Panel recommended that the Bureau solicit comment on how the burden of collecting the qualified mortgage information could be minimized.[525] Based on this feedback and consistent with the Small Business Review Panel's recommendation, the Bureau requests feedback regarding whether modifications to the proposed requirement would minimize the burden of collecting information related to a covered loan's qualified mortgage status.

Proposed comment 4(a)(38)–1 clarifies that financial institutions may rely on Regulation Z § 1026.43, the related commentary, and appendix Q to part 1026 in determining whether a covered loan is a qualified mortgage. This proposed comment further clarifies that, if a covered loan is subject to Regulation Z § 1026.43, but is not a qualified mortgage pursuant to § 1026.43(e) or (f), § 1003.4(a)(38) requires a financial institution to identify the covered loan as a loan that is not a qualified mortgage. Proposed comment 4(a)(38)–1 also explains that, if a covered loan is not subject to paragraphs (c) through (f) of Regulation Z § 1026.43, § 1003.4(a)(38) requires the financial institution to identify the covered loan as a loan that is not subject to the reporting requirements of § 1026.43. Finally, this proposed comment provides several illustrative examples of the requirements of § 1003.4(a)(38).

The Bureau is also proposing technical requirements related to the completion of the loan application register in appendix A. Proposed instruction 4(a)(38)–1 states that financial institutions should enter on the loan application register whether the covered loan is a qualified mortgage under Regulation Z by entering one of six codes. Proposed instruction 4(a)(38)–2 identifies the applicable codes for a covered loan that is a standard qualified mortgage, a temporary qualified mortgage, a small creditor qualified mortgage, a balloon-payment qualified mortgage, or not a qualified mortgage. Proposed instruction 4(a)(38)–3 identifies the applicable code for an application for a covered loan, and for a covered loan that is not subject to the ability-to-repay requirements of Regulation Z.

Section 1003.4(a)(38) is proposed pursuant to the Bureau's authority under sections 305(a) and 304(b)(5)(D) of HMDA. Pursuant to section 305(a) of HMDA, the Bureau believes that this proposed requirement is necessary to carry out the purposes of HMDA. By providing information regarding whether a covered loan is a qualified mortgage under Regulation Z, this proposed provision would ensure that the citizens and public officials of the United States are provided with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located. Furthermore, qualified mortgage data also would assist public officials, particularly HUD's Federal Housing Administration, in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

4(a)(39)

Currently, neither HMDA nor Regulation C requires a financial institution to report the amount of first draw on a home-equity line of credit or an open-end reverse mortgage.[526] Section 304(b) of HMDA permits the disclosure of such other information as the Bureau may require.[527] For the reasons discussed below, the Bureau is proposing to require financial institutions to report, for a home-equity line of credit and an open-end reverse mortgage, the amount of the draw on the covered loan, if any, made at account opening.

Both home-equity lines of credit and reverse mortgages represent important segments of the mortgage market that have been associated with problematic practices. Home-equity lines of credit were often used by speculative real estate investors both before and after the financial crisis, and were popular in areas where housing prices increased significantly prior to the collapse of the real estate market.[528] Likewise, reverse mortgages have long presented the potential for abuse of vulnerable seniors.[529] As a result, participants in the Board's 2010 Hearings called for more data regarding home-equity lines of credit and reverse mortgages, including the initial amount drawn.[530] Although originations of home-equity lines of credit have declined from their pre-market crash levels, they are expected to be become increasingly popular as homeowners regain equity.[531] Similarly, as the population of elderly individuals increases, reverse mortgages may become available to a larger segment of the population. The Bureau believes that requiring financial institutions to report the amount of the initial draw would permit greater insight into the operation of the markets for these important products. Such information would also help to ensure that public officials and public interest organizations can monitor risks to their communities and neighborhoods.

The Bureau believes that the burden of reporting the amount of the initial draw will be lessened by the fact that financial institutions will already need to record this amount in order to properly service the loan. However, the Bureau recognizes that financial institutions might not store the information in a format readily available for HMDA purposes. Home-equity lines of credit, for example, tend to run on a different platform than traditional, closed-end mortgage loans. Despite the potential increased burden described above, feedback received pursuant to the Bureau's outreach activities indicates that reporting of the initial draw may be justified. Accordingly, pursuant to its authority under sections 305(a) and 304(b)(5)(D) of HMDA, the Bureau is proposing § 1003.4(a)(39), which provides that a financial institution shall report, for a home-equity line of credit and an open-end reverse mortgage, the amount of the draw on the covered loan, if any, made at account opening. The Bureau believes that this proposed requirement is necessary to carry out HMDA's purposes. This proposed revision would provide a more complete picture of the home mortgage market and help the public and public officials compare the

[525] *See id.* at 40.

[526] Section 1003.4(c)(3) of Regulation C currently provides that a financial institution may report, but is not required to report, home-equity lines of credit made in whole or in part for the purpose of home improvement or home purchase. If a financial institution elects to report a home-equity line of credit, it reports only the amount of the line intended for home improvement or home purchase purposes at the time of the application. As a result, in certain cases, current HMDA data contains information regarding the initial draw on a home-equity line of credit.

[527] Section 1094(3)(A)(iv) of the Dodd-Frank Act amended section 304(b) of HMDA.

[528] *See* Michael LaCour-Little, Wei Yu, and Libo Sun, *The Role of Home Equity Lending in the Recent Mortgage Crisis,* 42 Real Estate Economics 153 (2014).

[529] Jessica Silver-Greenberg, *A Risky Lifeline for the Elderly Is Costing Some Their Homes,* N.Y. Times, Oct. 14, 2012, at A1 (''Reverse mortgages, which allow homeowners 62 and older to borrow money against the value of their homes and not pay it back until they move out or die, have long been fraught with problems.''); *see also* U.S. Consumer Fin. Prot. Bureau, *Report to Congress on Reverse Mortgages* (2012).

[530] *See* Atlanta Hearing, *supra* note 131; Chicago Hearing, *supra* note 137.

[531] *See* Bd. Of Governors of the Fed. Reserve Sys., Fed. Reserve Statistical Release, *Z.1 Financial Accounts of the United States: Flow of Funds, Balance Sheets, and Integrated Macroeconomic Accounts,* at 113, Table B.100 (2014), *available at http://www.federalreserve.gov/releases/z1/Current/z1.pdf* .; *see also* Ken Harney, *Homeowners' Equity Jumps 20 Percent After a Years-Long Slump,* Wash. Post, Jan. 4, 2013.

use of these products across different communities and groups of borrowers, thereby assisting in determining whether financial institutions are serving the housing needs of their communities. The Bureau seeks comment regarding the general utility of the data and on the costs associated with collecting and reporting the data. Although the Bureau believes that information about the initial draw is most useful for home-equity lines of credit, the Bureau solicits feedback regarding whether this data would be useful for all open-end lines of credit, including dwelling-secured commercial lines of credit. Furthermore, the Bureau understands that financial institutions have been developing new products, including multiple-draw closed-end reverse mortgages, and accordingly seeks feedback on whether to require reporting of the initial draw for all reverse mortgages, whether closed or open-end.

Proposed instruction 4(a)(39) in appendix A provides technical instructions regarding how to enter the data on the loan application register. Proposed instruction 4(a)(39)–1 provides that a financial institution must enter in dollars the amount of any draw on a home-equity line of credit or an open-end reverse mortgage made at the time of account opening.

4(b) Collection of Data on Ethnicity, Race, Sex, Age, and Income

Section 1003.4(b)(1) of current Regulation C requires that a financial institution collect data about the ethnicity, race, and sex of the applicant or borrower as prescribed in appendix B. Section 1003.4(b)(2) provides that the ethnicity, race, sex, and income of an applicant or borrower may but need not be collected for loans purchased by the financial institution. The Bureau proposes to add age to § 1003.4(b)(1) and (b)(2), and proposes to amend § 1003.4(b)(1) by requiring a financial institution to collect data about the ethnicity, race, sex, and age of the applicant or borrower as prescribed in both appendices A and B. The Bureau also is proposing minor wording changes to § 1003.4(b)(1) and (b)(2).

As discussed in the section-by-section analysis of § 1003.4(a)(10), the Dodd-Frank Act amended HMDA section 304(b)(4) to require financial institutions to report an applicant's or borrower's age.[532] As discussed above, the Bureau is proposing to implement the requirement to collect and report age by adding this characteristic to the information listed in § 1003.4(a)(10)(i). To conform to that proposed requirement, the Bureau is proposing to add age to § 1003.4(b)(1) and (b)(2). In addition, as part of the Bureau's efforts to streamline and clarify Regulation C, the Bureau is proposing to amend § 1003.4(b)(1) by requiring a financial institution to collect data about the ethnicity, race, sex, and age of the applicant or borrower as prescribed in appendices A and B since both appendices contain instructions for the collection of an applicant's or borrower's demographic information.

As discussed above, § 1003.4(b)(2) provides that ethnicity, race, sex, and income data may but need not be collected for loans purchased by a financial institution. Instruction I.D.1.a of appendix A provides that a financial institution need not collect or report this applicant and borrower information for loans purchased and if an institution chooses not to report this information, it should use the Codes for ''not applicable.'' While the proposed reporting requirements do not require reporting of ethnicity, race, sex, age, and income for loans purchased by a financial institution, the Bureau solicits feedback on whether this exclusion is appropriate. In particular, the Bureau specifically solicits feedback on the general utility of ethnicity, race, sex, age, and income data on purchased loans and on the unique costs and burdens associated with collecting and reporting the data that financial institutions may face if the reporting requirement were modified to no longer permit optional reporting but instead require reporting of this applicant and borrower information for purchased loans.

4(c) Optional Data

4(c)(1)

Current § 1003.4(c)(1) provides that a financial institution may report the reasons it denied a loan application but is not required to do so. As discussed in the section-by-section analysis of § 1003.4(a)(16), the Bureau is proposing to make reporting of denial reasons mandatory instead of optional. To conform to that proposed requirement, the Bureau is proposing to delete § 1003.4(c)(1).

4(c)(2)

Section 1003.4(c)(2) provides that institutions may report requests for preapprovals that are approved by the institution but not accepted by the applicant, but they are not required to do so. The Bureau is proposing to make reporting of requests for preapprovals approved by the financial institution but not accepted by the applicant mandatory instead of optional.

The Board published an advanced notice of proposed rulemaking in 1998 which solicited feedback about reporting of preapprovals.[533] The Board noted that originations resulting from preapprovals were already being reported without any kind of preapproval identifier, and noted that Regulation B required sending adverse action notices when preapproval requests were denied.[534] Some commenters noted that aligning with Regulation B's adverse action requirement could distort the data by capturing denials but not requests that were approved but did not lead to an origination.[535] Following the advance notice, the Board proposed an approach that would align with Regulation B's discussion of preapprovals and prequalifications.[536] In response to additional comments received on that proposal the Board adopted the current preapproval requirement in 2002, with specific action taken codes and a flag for preapproval requests.[537] The Board also provided for optional reporting of preapproval requests that are approved but not accepted by the applicant, because it believed that lenders might want ''to put into context the preapproval requests that are denied.''[538] The Board did not provide for reporting preapproval requests that were closed for incompleteness or withdrawn because it believed that the number of such requests would be small and the benefit of such data would not warrant the burden of reporting it.[539] The Board noted that, based on 2000 HMDA data, 2 percent of other mortgage applications were closed for incompleteness and 7 percent were withdrawn.

The Bureau believes that reporting of preapprovals approved by the financial institution but not accepted by the applicant provides context for denials of preapproval requests, and improves fair lending analysis because it allows denials to be compared to a more complete set of approved preapproval requests. Combining originated loans and loans approved but not accepted for purposes of comparison with denied applications is common in fair lending analysis for other home purchase applications. However, such analysis is

[532] Dodd-Frank Act section 1094(3)(A)(i), 12 U.S.C. 2803(b)(4).

[533] 63 FR 12329 (Mar. 12, 1998).

[534] 63 FR 12329, 12330.

[535] 65 FR 78656, 78658 (Dec. 15, 2000).

[536] 65 FR 78659.

[537] 67 FR 7222 (Feb. 15, 2002).

[538] 67 FR 7224.

[539] *Id.*.

not possible for preapprovals if an institution does not report preapprovals approved but not accepted.

Analysis of the currently reported preapproval requests that are approved but not accepted highlights the importance of these data. Over half of all reported home purchase applications in the 2012 HMDA data (excluding loans purchased by a financial institution) were received by financial institutions that offer preapproval programs. Approximately 14 percent of reported preapproval requests were approved but not accepted. For all home purchase applications (excluding loans purchased by a financial institution), approximately 5 percent were approved but not accepted. Because the 14 percent represents only institutions that chose to report preapproval requests approved but not accepted, the percentage if the proposal were adopted would likely be higher. For certain institutions with large preapproval programs, the percentage of preapproval requests that are approved but not accepted is much higher, including above 50 percent for some institutions. For all home purchase applications (excluding loans purchased by a financial institution and not including preapproval requests), approximately 2 percent were closed for incompleteness and 9 percent were withdrawn, similar to the percentages from the 2000 HMDA data. Preapproval requests that are approved but not accepted thus occur more frequently than other applications for home purchases that are approved but not accepted and represent an important element of HMDA data.

Therefore, the Bureau is proposing to make reporting of requests for preapprovals approved by the financial institution but not accepted by the applicant mandatory instead of optional. Consequently, the Bureau is proposing to delete current § 1003.4(c)(2) and, as noted above, to revise § 1003.4(a) accordingly. The Bureau believes that this change will not represent any additional burden for institutions that currently choose to report such preapprovals, and that the burden may not be great for institutions that currently do not choose to report such preapprovals because of information that such institutions currently collect about all of their preapproval requests before the outcome of the request is known. However, the Bureau solicits feedback about whether financial institutions expect significant burden associated with the proposed change.

4(c)(3)

Section 1003.4(c)(3) of Regulation C currently provides that a financial institution may report, but is not required to report, home-equity lines of credit made in whole or in part for the purpose of home improvement or home purchase. As discussed in the section-by-section analysis to § 1003.2(o), the Bureau is proposing to require reporting of open-end lines of credit, which include home-equity lines of credit. To conform to that proposed modification, the Bureau proposes to delete § 1003.4(c)(3). The Bureau also proposes to delete comment 4(c)(3)–1, which currently provides that an institution that opts to report home-equity lines reports the disposition of all applications, not just originations. The Bureau solicits feedback regarding whether this proposed modification is appropriate.

4(d)

For the reasons discussed above in the section-by-section analysis of proposed § 1003.3(c), the Bureau proposes to move the discussion of excluded data to proposed § 1003.3(c). Accordingly, the Bureau proposes to reserve § 1003.4(d).

4(f) Quarterly Recording of Data

As part of the effort to streamline Regulation C, the Bureau proposes to move the data recording requirement in § 1003.4(a) to proposed § 1003.4(f) and to make technical modifications to the requirement. Proposed § 1003.4(f) provides that a financial institution shall *record*[540] the data collected pursuant to § 1003.4 on a loan application register within 30 calendar days after the end of the calendar quarter in which final action is taken (such as origination or purchase of a covered loan, or denial or withdrawal of an application).

Section 1003.5 Disclosure and Reporting

5(a) Reporting to Agency

5(a)(1)

HMDA section 304(h)(1) provides that a financial institution shall submit its HMDA data to the Bureau or to the appropriate agency for the institution in accordance with rules prescribed by the Bureau.[541] HMDA section 304(h)(1) also directs the Bureau to develop regulations, in consultation with other appropriate agencies, that prescribe the format for disclosures required under HMDA section 304(b), the method for submission of the data to the appropriate agency, and the procedures for disclosing the information to the public. HMDA section 304(n) also requires that the data required to be disclosed under HMDA section 304(b) shall be submitted to the Bureau or to the appropriate agency for any institution reporting under HMDA, in accordance with regulations prescribed by the Bureau. HMDA section 304(c) requires that information required to be compiled and made available under HMDA section 304, other than loan application register information under section 304(j), must be maintained and made available for a period of five years.[542]

Section 1003.5(a)(1) of Regulation C requires that, by March 1 following the calendar year for which data are compiled, a financial institution must submit its complete loan application register to the agency specified in appendix A. Section 1003.5(a)(1) also provides that a financial institution shall retain a copy of its complete loan application register for its records for at least three years. Section II of appendix A to Regulation C provides information concerning where financial institutions should submit their complete loan application registers. Additional information concerning submission of the loan application register is found in comments 4(a)–1.vi and –1.vii, 5(a)–1 and –2, and 5(a)–5 through –8. Comment 5(a)–2 provides that a financial institution that reports 25 or fewer entries on its loan application register may submit the register in paper form. For the reasons described below, the Bureau is proposing several changes to § 1003.5(a)(1).

Quarterly Reporting

The Bureau is proposing that a financial institution with a high transaction volume report its HMDA data to the Bureau or appropriate agency on a quarterly, rather than an annual, basis. This proposal is based on considerations relating to the timeliness of HMDA data submitted, the quality of the data submitted, and the Bureau's desire to make annual HMDA data available to the public earlier than they are currently made available.

Under the current regime, HMDA data may be reported as many as 14 months after final action is taken on an

[540] A financial institution's obligation to *report* data to the Bureau or the appropriate agency for the institution is addressed below in the section-by-section analysis of proposed § 1003.5(a).

[541] Dodd-Frank Act section 1094(3)(B), 12 U.S.C. 2803(h)(1).

[542] HMDA section 304(j)(6) requires that loan application register information described in HMDA section 304(j)(1) for any year shall be maintained and made available, upon request, for three years.

application or loan.[543] The Bureau is concerned that this delay impairs the ability of the Bureau and the appropriate agencies to use HMDA data to effectuate the purposes of the statute in a timely manner. The Bureau believes that timelier data would allow it and the appropriate agencies to determine, in much closer to ''real time,'' whether financial institutions are fulfilling their obligations to serve the housing needs of communities in which they are located. The Bureau also believes that timelier identification of risks to local housing markets and troublesome trends by the Bureau and the appropriate agencies would allow for more effective interventions or other actions by the agencies and other public officials. The Bureau's proposal reduces the maximum time lag between final action on a loan or application and reporting from 14 months to approximately five months for a significant percentage of reported transactions.

Further, as quarterly reporting requires financial institutions with larger transaction volumes to review and edit smaller batches of reportable data several times throughout the year, the Bureau believes that quarterly reporting would facilitate and enhance compliance with HMDA, reduce reporting errors, and improve the quality of HMDA data. Finally, because quarterly reporting would permit the Bureau to process HMDA data throughout the year, the Bureau believes the proposal may allow for the earlier annual release to the public of HMDA data. The HMDA data are currently made public by the FFIEC in September of each year, up to 20 months after final action is taken on applications and loans reflected in the data. HMDA data users have complained to the Bureau, and to the Board before it, that this delay reduces the usefulness of the data to the public. Although the Bureau currently does not anticipate that HMDA data would be released to the public more frequently than annually,[544] it believes that quarterly reporting may allow the Bureau and the FFIEC to expedite disclosures of annual HMDA data to the public and better serve the public disclosure goals of the statute.

Based on these considerations, the Bureau believes that it may be appropriate to require certain financial institutions to report their HMDA data on a quarterly basis. Accordingly, proposed § 1003.5(a)(1)(ii) requires that, within 60 calendar days after the end of each calendar quarter, a financial institution that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, for the preceding calendar year (the 75,000 transaction threshold) shall submit its loan application register containing all data required to be recorded pursuant to § 1003.4(f).[545] The Bureau believes that this proposed requirement is necessary and proper to effectuate the purposes of HMDA. The Bureau solicits comment on whether this proposal is appropriate, including any increase in costs resulting from the requirement that financial institutions submit accurate HMDA data on a quarterly basis as opposed to once each year.

To the extent there are cost increases, the Bureau seeks to balance those costs with the benefits of quarterly reporting described above. The Bureau's proposal limits the imposition of any increased costs to those institutions with the largest transaction volumes, thus minimizing the number of financial institutions subject to the proposed requirement while maximizing the volume of data reported on a quarterly basis. The Bureau believes that realizing the benefits of more timely data submission requires that the agencies receive sufficient data to perform meaningful analyses. Further, the Bureau believes that, the larger the volume of data submitted and processed during the course of the calendar year, the more likely HMDA data could be released to the public earlier the following year than is currently the case. Based on 2012 HMDA data, the 75,000 transaction threshold proposed would have required 28 financial institutions to report on a quarterly basis in 2013. In 2012, these 28 institutions reported approximately 50 percent of all transactions reported under HMDA. The Bureau solicits feedback on whether the proposed 75,000 transaction threshold is justified by the benefits of quarterly reporting.

The Bureau's proposal requires that HMDA data submitted on a quarterly basis be submitted within 60 days after the end of the calendar quarter in which final action is taken (such as origination or purchase of a covered loan, or denial or withdrawal of an application). Financial institutions currently *record* all reportable transactions on the loan application register within 30 days after the end of the calendar quarter.[546] The Bureau's proposal retains this requirement for all financial institutions.[547] Under the proposal, financial institutions that must *report* on a quarterly basis have an additional 30 days beyond the date by which they must record their HMDA data to submit their quarterly loan application registers. The Bureau solicits feedback on whether this proposal provides financial institutions required to report on a quarterly basis sufficient time to prepare their quarterly data for submission.

As proposed, § 1003.5(a)(1) allows for a delay in the effective date of the proposed quarterly reporting provision. The Bureau has left the effective date blank in proposed § 1003.5(a)(1)(ii), but is considering a delay of at least one year from the effective date of the other amendments to Regulation C proposed herein. The Bureau solicits feedback on the length of time beyond the effective date of the other proposed amendments to Regulation C, if any, that financial institutions would require to develop and implement the systems, policies, and procedures required to report HMDA data on a quarterly basis.

The Bureau is proposing new comment 5(a)–1 to illustrate coverage under proposed § 1003.5(a)(1)(ii). The Bureau is proposing conforming modifications to comment 5(a)–2 to clarify when, if the appropriate Federal agency for a financial institution reporting on a quarterly basis changes, the financial institution would report to the new agency. The Bureau is proposing new comment 5(a)–5 to clarify that, for purposes of the proposed § 1003.5(a)(1)(ii) requirement that a financial institution that reports on a quarterly basis must retain a copy of its complete loan application register for its records for at least three years, the complete loan application register is the loan application register reflecting all data reported for the preceding calendar year. The comment explains that a financial institution that reports data on a quarterly basis may satisfy the retention requirement in § 1003.5(a)(1)(ii) by retaining the data

[543] For example, a loan originated on January 1 in calendar year one is not reported to the Bureau or other appropriate agency until March 1 of calendar year two.

[544] Based on its analysis to date, the Bureau believes that releasing HMDA data to the public on a quarterly basis, even in aggregate form, may create risks to applicant and borrower privacy that are not justified by the benefits of such release. However, the Bureau, in consultation with the other appropriate agencies, intends to evaluate options for the agencies' release of data or analysis more frequently than annually at a later date.

[545] Currently, § 1003.4(a) requires that ''all reportable transactions shall be recorded, within thirty calendar days after the end of the calendar quarter in which final action is taken (such as origination or purchase of a loan, or denial or withdrawal of an application), on a register in the format prescribed in Appendix A of this part.'' The Bureau's proposal moves this requirement, with some revisions, to proposed § 1003.4(f).

[546] Section 1003.4(a).

[547] *See* proposed § 1003.4(f).

for the calendar year combined on one loan application register or on four quarterly loan application registers. The Bureau solicits feedback on whether these proposals are appropriate.

Elimination of Paper Reporting

Comment 5(a)–2 provides that a financial institution that reports 25 or fewer entries on its loan application register may submit the register in paper, rather than electronic, format. The Bureau understands that, in recent years, very few financial institutions have submitted their loan application registers in paper format. The FFIEC provides the HMDA Data Entry Software (DES) at no cost to institutions, and the Bureau understands that the vast majority of financial institutions with small transaction volumes take advantage of this free tool to compile and securely submit their HMDA data to the appropriate agencies. Loan application registers that are submitted on paper must be manually input by the processor into its system, requiring the processor to duplicate the work of the financial institution, in order for the data to be used by the agencies and included in the HMDA data products later prepared.

The Bureau notes that, if its proposal to exclude from the definition of financial institution any institution that originated less than 25 covered loans, excluding open-end lines of credit, is adopted,[548] the number of financial institutions that would be eligible to submit their loan application register in paper format would be significantly reduced.[549] Further, as part of its efforts to improve and modernize HMDA operations, the Bureau is considering various improvements to the HMDA data submission process that should reduce even further the need for institutions to compile and submit their HMDA data in paper format. The improvements under consideration include upgrades to the HMDA DES, such as moving DES to the web, which would allow financial institutions to use the software from multiple terminals in different branches and would eliminate the need to download and install updated software each year.

Based on these considerations, the Bureau believes that preserving an option to permit the submission of loan application registers in paper format is no longer necessary. Accordingly, the Bureau is proposing to delete comment 5(a)–2, which allows a financial institution that reports 25 or fewer entries on its loan application register to submit the register in paper form, and to clarify in § 1003.5(a)(1) that the register must be submitted in electronic format. The Bureau solicits comment on this proposal, including concerning any additional costs it imposes upon small-volume financial institutions.

Retention of Complete Loan Application Register in Electronic Format

Section 1003.5(a)(1) requires that a financial institution shall retain a copy of its complete loan application register for three years, but Regulation C is silent concerning the formats in which the complete loan application register may be retained. During the Small Business Review Panel process, the Bureau learned that some financial institutions have interpreted § 1003.5(a)(1) to require that complete loan application registers must be retained in paper format, and that this can be burdensome depending on the size of the complete loan application register. Proposed comment 5(a)–4 clarifies that retention of the loan application register in electronic format is sufficient to satisfy the requirements of § 1003.5(a)(1). The Bureau seeks comment on whether this proposal is appropriate.

Submission Procedures and Related Technical Requirements

As part of its efforts to improve and modernize HMDA operations, the Bureau is considering various improvements to the HMDA data submission process. The Bureau is proposing to reorganize sections I and II of appendix A and portions of the commentary so that instructions relating to data submission are found in one place in the regulation. The Bureau expects to publish procedural and technical requirements and specifications relating to data submission separately from this proposal.[550]

The content of section II of appendix A and comment 5(a)–1 are inconsistent with the Bureau's plan for data submission and the Bureau therefore proposes to delete these provisions. The Bureau proposes to move the portion of comment 4(a)–1.vi concerning officer certification to § 1003.5(a)(1)(iii). The Bureau proposes to incorporate the pertinent remaining portion of comment 4(a)–1.vi and comments 4(a)–1.vii and 5(a)–7 and –8 into proposed instructions 5(a)–2 and –3 in appendix A. The Bureau proposes to delete the remaining portions of these comments. Proposed instruction 5(a)–1 in appendix A provides procedural and technical information concerning submission requirements. When the Bureau finalizes this proposed rule, it will make conforming technical changes to the transmittal sheet and loan application register form in appendix A. The Bureau solicits feedback on whether these proposals are appropriate.

5(a)(3) Entity Identifier

Currently the transmittal sheet and loan application register in appendix A to Regulation C require entry of the Reporter's Identification Number (HMDA RID). The HMDA RID consists of an entity identifier specified by the financial institution's appropriate agency combined with a code that designates the agency. For the reasons discussed below, pursuant to HMDA section 305(a), the Bureau is proposing to require financial institutions to provide a globally-accepted Legal Entity Identifier (LEI) to replace the HMDA RID in HMDA submissions.

Under the current system, each Federal agency chooses the entity identifier that its financial institutions use in reporting their HMDA data. The following entity identifiers are currently used in generating the HMDA RID:

- The Research Statistics Supervision and Discount (RSSD) number for institutions supervised by the Board and for depository institutions supervised by the Bureau;
- the Federal Tax Identification number for nondepository institutions supervised by agencies other than the Board;
- the charter number for depository institutions supervised by the NCUA and the OCC; and
- the certificate number for depository institutions supervised by the FDIC.[551]

Leading zeroes are added to the extent necessary to make this entity identifier ten digits for purposes of the transmittal sheet and loan application register, and the identifier is then amalgamated with a one-digit code at the end that identifies the agency.[552]

There is no mechanism to link nondepository institutions identified by a Federal Tax Identification number to related companies. The lack of a sufficiently comprehensive

[548] *See* proposed § 1003.2(g).

[549] If proposed § 1003.2(g) is adopted and the Bureau continues to allow a financial institution that reports 25 or fewer entries on its loan application register to submit its register in paper format, only a financial institution that originated exactly 25 covered loans would be eligible to submit its register in paper format.

[550] The Board has published technical specification for HMDA reporting annually since 1998. *See* Bd. of Governors of the Fed. Reserve Sys., *2014 HMDA File Specifications* 2–3 (Sept. 13, 2013), *http://www.ffiec.gov/hmda/pdf/spec2014.pdf.*

[551] *Id.* at 2.

[552] *Id.* at 2, 8.

identification system for financial institutions that are parties to mortgage transactions can result in the same financial institution being identified by different names or codes across and within datasets. As a result, financial institutions, regulators, and data users can find data aggregation, validation, and analysis difficult.

Requiring financial institutions to provide an LEI when they report their HMDA data could help to address these concerns. The LEI is a unique, 20-digit alphanumeric identifier associated with a single legal entity and is intended to serve as a uniform international standard for identifying participants in financial transactions. The LEI's alphanumeric identifier does not itself contain any embedded information about the entity but is linked to reference data about the entity. Once the LEI is fully implemented, this information is projected to include data on ownership and corporate hierarchies.[553]

A global LEI standard is currently in the implementation stage, with strong support from the Financial Stability Board,[554] the Group of 20 Finance Ministers and Central Bank Governors, and others.[555] The LEI's Regulatory Oversight Committee (ROC)—the top tier in the LEI governance structure—held its inaugural meeting in early 2013.[556]

The second tier in LEI governance—the Global LEI Foundation (GLEIF)—was recently established as a not-for-profit foundation in Switzerland.[557] The GLEIF will build the LEI system's technology infrastructure and have responsibility for operational and quality controls, assuring adherence to standards for reliability, quality, and uniqueness.[558] The third tier of the LEI system is the network of local operating units (LOUs) that assign LEIs, validate and maintain the associated reference data, and make these data continuously available to the public and regulators.[559]

The ROC has already endorsed more than a dozen pre-LOUs around the world, and the LEI identifiers issued by these pre-LOUs have been accepted for regulatory purposes in various jurisdictions represented in the ROC.[560] Approximately 300,000 entities have been issued LEI identifiers to date.[561]

In light of the potential benefits that a robust and uniform entity identifier could provide, the Bureau is proposing to add new § 1003.5(a)(3) to require financial institutions to provide an LEI when reporting HMDA data. Proposed § 1003.5(a)(3) specifies that the LEI must be issued by: (i) A utility endorsed by the ROC or (ii) a utility endorsed or otherwise governed by the GLEIF (or any successor of the GLEIF) after the GLEIF assumes operational governance of the global LEI system.

The Bureau believes that requiring use of the LEI could improve the ability to identify the legal entity that is reporting data and to link it to its corporate family. For these reasons, pursuant to HMDA section 305(a), the Bureau believes that proposed § 1003.5(a)(3) is necessary and proper to effectuate HMDA's purposes and facilitate compliance therewith. By facilitating identification, the Bureau's proposal would help data users in achieving HMDA's objectives of identifying whether financial institutions are serving the housing needs of their communities, as well as identifying possible discriminatory lending patterns. This new requirement could also assist in identifying market activity and risks by related companies.

The Bureau recognizes that requiring financial institutions to obtain LEIs would impose some costs on the financial institutions. The LEI system is based on a cost-recovery model.[562] One LOU endorsed by the ROC currently charges registrants approximately $200 for initial registration plus $100 per year for maintenance.[563] These costs could decrease as the LEI identifier is used more widely.

In light of all these considerations, the Bureau believes that the benefits of having all HMDA reporters obtain and report an LEI may justify the associated costs. The Bureau solicits feedback on whether the LEI would be a more appropriate entity identifier than the HMDA RID. The Bureau is also seeking feedback regarding whether other identifiers, such as the RSSD number[564] or the NMLSR Identifier,[565] would be an appropriate alternative to the LEI.

5(a)(4) Parent Company

The transmittal sheet in appendix A to Regulation C currently requires financial institutions to provide the name of their parent company, if any. Because information about parent companies is not yet available through the LEI, the Bureau believes it is necessary to maintain this requirement to ensure that financial institutions' submissions can be linked with those of their corporate parents. The Bureau is therefore proposing new § 1003.5(a)(4), which provides that when reporting its

[553] *See generally* Fin. Stability Bd., *A Global Legal Entity Identifier for Financial Markets* 38–39 (June 8, 2012), *http://www.financialstabilityboard.org/publications/r_120608.pdf* (including a recommendation on LEI reference data relating to ownership); Fin. Stability Bd., LEI Implementation Group, *Fourth Progress Note on the Global LEI Initiative* 4 (Dec. 11, 2012), *http://www.financialstabilityboard.org/publications/r_121211.pdf* (noting that the LEI Implementation Group is developing proposals for additional reference data on the direct and ultimate parent(s) of legal entities and on relationship data more generally).

[554] The Financial Stability Board is an international coordinating body established to promote global financial stability and regulatory coordination. It is a successor to the Financial Stability Forum, which was founded in 1999 by the Group of 7 Finance Ministers and Central Bank Governors.

[555] *See, e.g.,* Matthew Reed, *Legal Entity Identifier System Gains Global Momentum,* Treasury Notes Blog (Jan. 14, 2014), *http://www.treasury.gov/connect/blog/Pages/Legal-Entity-IdentifierSystem-Gains-Global-Momentum.aspx*; Fin. Stability Bd., *A Global Legal Entity Identifier for Financial Markets* (June 8, 2012), *https://www.financialstabilityboard.org/publications/r_120608.pdf.* A number of trade associations, including the Americans Bankers Association, expressed support for creation of the LEI in an April 12, 2011 letter to all G–20 finance ministers, which is available at *http://www.gfma.org/correspondence/item.aspx?id=159.*

[556] *See* ROC, *Inaugural Meeting of the Global Legal Entity Identifier (LEI) Regulatory Oversight Committee (ROC)* (Jan. 28, 2013), *http://www.leiroc.org/publications/gls/roc_20130128.pdf.*

[557] Press Release, GLEIF, *Inaugural Meeting of the Global Legal Entity Identifier Foundation (GLEIF)* (Jun. 30, 2014), *http://www.leiroc.org/publications/gls/gleif_20140629_2.pdf*; ROC, *Regulatory Oversight Committee Welcomes First Meeting of Global LEI Foundation* (June 30, 2014), *http://www.leiroc.org/publications/gls/gleif_20140629_1.pdf.*

[558] *See, e.g.,* Matthew Reed, *Legal Entity Identifier System Gains Global Momentum,* Treasury Notes Blog (Jan. 14, 2014), *http://www.treasury.gov/connect/blog/Pages/Legal-Entity-IdentifierSystem-Gains-Global-Momentum.aspx.*

[559] *Id.*

[560] *See* Global Fin. Markets Ass'n, *Progress and Developments in Establishing the Global LEI System* 5–6 (Mar. 2014), *http://www.gfma.org/uploadedFiles/Initiatives/Legal_Entity_Identifier_(LEI)/GFMAwebinarLEISlideDeck10Mar2014%20%5bCompatibility%20Mode%5d.pdf* (listing examples of regulatory acceptance); ROC, *Endorsed Pre-LOUs of the Interim Global Legal Entity Identifier System (GLEIS)* (May 2014), *http://www.leiroc.org/publications/gls/lou_20131003_2.pdf.*

[561] ROC, *Regulatory Oversight Committee Welcomes First Meeting of Global LEI Foundation* (June 30, 2014), *http://www.leiroc.org/publications/gls/gleif_20140629_1.pdf.*

[562] *Charter of the ROC For the Global LEI System* 2, 18 (Nov. 5, 2012), *available at http://www.financialstabilityboard.org/publications/r_121105c.pdf.*

[563] *See* GMEI Utility, *Frequently Asked Questions, https://www.gmeiutility.org/frequentlyAskedQuestions.jsp* (accessed July 17, 2014).

[564] RSSD numbers are assigned and managed by the Board's National Information Center. As noted above, they are currently used by some financial institutions as their HMDA RID.

[565] NMLSR assigns a unique identifier to each entity, branch, and individual loan originator that has a record within its system. The NMLSR Identifier is required on certain loan documents pursuant to the Bureau's 2013 Loan Originator Rule. Regulation Z § 1026.36(g). The Bureau's 2013 TILA–RESPA Final Rule will also require use of the NMLSR Identifier when the rule becomes effective in August 2015. Regulation Z § 1026.37(k).

data, a financial institution shall identify its parent company, if any. Proposed comment 5(a)–3 explains that for purposes of § 1003.5(a)(4), an entity that holds or controls an ownership interest in the financial institution that is greater than 50 percent should be listed as a parent company. This is the same test that is used to determine if a financial institution is a subsidiary of a bank or savings association for purposes of reporting HMDA data to the same agency as the parent.

5(b) Public Disclosure of Statement

Under Regulation C as originally promulgated, the disclosure statement was the means by which financial institutions made available to the public the aggregate data required to be disclosed under HMDA section 304.[566] At present, the FFIEC prepares an individual disclosure statement for each financial institution using the HMDA data submitted by the institution for the previous calendar year. A disclosure statement is a series of tables made available to the public by a financial institution and on the FFIEC Web site. Unlike the modified loan application register that a financial institution must make available to the public under HMDA section 304(j) and § 1003.5(c) of Regulation C, a financial institution's disclosure statement presents the institution's HMDA data in aggregate forms, rather than on the loan level.

5(b)(1)

HMDA section 304(k) requires the FFIEC to make available a disclosure statement for each financial institution required to make disclosures under HMDA section 304.[567] Section 1003.5(b)(1) of Regulation C requires that the FFIEC prepare a disclosure statement for each financial institution based on the data each financial institution submits on its loan application register.

The Bureau proposes to modify § 1003.5(b)(1) to clarify that, although some financial institutions will report quarterly under proposed § 1003.5(a)(1)(ii), disclosure statements for these financial institutions will be based on all data submitted by each institution for the preceding calendar year. The Bureau also proposes to replace the word ''prepare'' with ''make available'' in § 1003.5(b)(1). The Bureau believes that advances in technology may permit, for example, the FFIEC to produce an online tool that would allow users of the tool to generate disclosure statements. It is the Bureau's interpretation that the FFIEC's obligation under HMDA section 304(k) would be satisfied if the FFIEC produced such a tool, which in turn would produce disclosure statements upon request. The Bureau proposes to modify the language in § 1003.5(b)(1) to clarify that such developments are accommodated by this section. Further, pursuant to its authority under HMDA section 305(a), the Bureau believes that permitting the FFIEC to produce a tool that allows members of the public to generate disclosure statements is necessary and proper to effectuate the purposes of HMDA and to facilitate compliance therewith. The Bureau solicits feedback on whether these proposals are appropriate.

5(b)(2)

HMDA section 304(k)(1) requires that, in accordance with procedures established by the Bureau, a financial institution shall make its disclosure statement available to the public upon request no later than three business days after it receives the statement from the FFIEC. HMDA section 304(m), titled ''Opportunity to reduce compliance burden,'' provides that a financial institution shall be deemed to have satisfied the public availability requirements of section 304(a) if it compiles the information required at the home office of the institution and provides notice at the branch locations specified in HMDA section 304(a) that such information is available from the home office upon written request. The Bureau is given broad discretion as to the media and format in which disclosure statements are made available and the procedures for disclosing them.[568]

Section 1003.5(b)(2) of Regulation C requires that each financial institution make its disclosure statement available to the public in its home office within three business days of receiving it. In addition, § 1003.5(b)(3) requires that a financial institution must either (1) make the statement available to the public in at least one branch office in each other MSA and each other MD where the institution has offices or (2) post the address for sending written requests for the disclosure statement in the lobby of each branch office in each other MSA and each other MD and provide a copy of the disclosure statement within 15 calendar days of receiving a written request. Comment 5(b)–2 provides that an institution may make the disclosure statement available in paper form or, if the person requesting the data agrees, in electronic form. For the reasons described below, the Bureau is proposing to allow a financial institution to make its disclosure statement available to the public by making available a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site and that includes the FFIEC's Web site address.

The current disclosure statement for each reporting financial institution is comprised of a series of numerous tables that are prepared using the HMDA data submitted by the financial institution for the previous calendar year. The Bureau has received feedback from financial institutions that the largest disclosure statements can exceed 4,000 pages. The FFIEC posts the disclosure statements to the FFIEC Web site in September each year and, after receiving notice that the statements are available on the FFIEC Web site, financial institutions download or print the statements from the Web site so as to have them available for members of the public. The Bureau has received feedback from financial institutions that having to print and download the disclosure statements so as to make them available is burdensome and often wasteful, as disclosure statements are infrequently requested. Financial institutions have argued that, because the source of the disclosure statements—the FFIEC Web site—is readily available and easily accessible to the public at no cost, institutions should be permitted to direct members of the public who request disclosure statements to the FFIEC Web site. During the Small Business Review Panel process, the Bureau heard from small entity representatives that they rarely if ever receive requests for their disclosure statements and that making them available as currently required can be burdensome. The Small Business Review Panel recommended that the Bureau consider whether there may be alternative means of providing disclosure statements to the public.[569]

The Bureau believes that costs to financial institutions would be reduced by allowing institutions to refer members of the public who request disclosure statements to the FFIEC Web site. The Bureau has considered whether the provision to the public of disclosure statements in paper or electronic form by the financial institution itself confers any unique

[566] 41 FR 23931, 23937–38 (June 14, 1976).

[567] HMDA section 304(k)(1)(A) provides that a financial institution ''shall make a disclosure statement available, upon request, to the public no later than 3 business days after the institution receives the statement from the Federal Financial Institutions Examination Council.''

[568] *See* HMDA sections 304(h)(1)(A), 304(k)(1), 304(m)(2).

[569] *See* Small Business Review Panel Report at 43.

benefit to the disclosure goals of the statute, but does not believe it does. The FFIEC Web site provides one, easily accessible location where members of the public can access all HMDA disclosure statements for all financial institutions required to report under the statute, which the Bureau believes furthers the goals of the statute.[570] The Bureau has also considered whether requiring that a member of the public seeking a disclosure statement obtain it online would be unduly burdensome. Given the prevalence of internet access today, the Bureau believes that members of the public should be able to readily access HMDA disclosure statements online with minimum inconvenience, if any. The Bureau believes that any such inconvenience is not greater than, and is likely less than, the potential inconvenience of receiving a disclosure statement on a floppy disc or other electronic data storage medium which may be used with a personal computer, as is contemplated by HMDA section 304(k)(1)(b).

The Bureau believes that the burden to financial institutions associated with the provision of disclosure statements to members of the public upon request is likely not justified by any benefit to maintaining the current disclosure statement dissemination scheme. For these reasons, the Bureau believes it is reasonable to deem that financial institutions make disclosure statements available, pursuant to HMDA sections 304(k)(1) and 304(m), by referring members of the public seeking disclosure statements to the FFIEC Web site, as provided under proposed § 1003.5(b)(2). This proposal is also proposed pursuant to the Bureau's authority under HMDA 305(a). For the reasons given, this proposal is necessary and proper to effectuate the purposes of HMDA and facilitate compliance therewith.

Accordingly, the Bureau is proposing that, no later than three business days after receiving notice that its disclosure statement is available, a financial institution shall make available to the public at its home office and each branch office located in each MSA and each MD a notice that clearly conveys that the institution's disclosure statement may be obtained on the FFIEC Web site and that includes the FFIEC's Web site address.[571] Because this proposal requires only that a financial institution make available a notice, rather than its disclosure statement, the Bureau believes it appropriate to require that a financial institution make available the notice in every branch office located in an MSA or MD. The Bureau is proposing a new comment 5(b)–3 to provide an example of notice content that would satisfy the requirements of proposed § 1003.5(b)(2). Because the Bureau intends to make disclosure statements also available on its Web site, the example in proposed comment 5(b)–3 includes the Bureau's Web site address. The Bureau seeks feedback on whether these proposals are appropriate.

The Bureau also proposes to modify comment 5(b)–2 to conform to proposed § 1003.5(b)(2) and to allow a financial institution to provide the proposed notice in paper or electronic form. Comment 5(b)–2 requires that an institution may make its disclosure statement available in electronic form to a person requesting it only if the person agrees. This comment implements a requirement previously found in HMDA section 304(m)(2), which provided that, in complying with its obligation to make its HMDA data available to the public as required by section 304(m)(1), an institution could provide the information in electronic form only ''if acceptable to the person'' requesting the information. The Dodd-Frank Act amended HMDA section 304(m)(2) to substitute this language with new language providing that, in complying with section 304(m)(1), a financial institution ''shall provide the person requesting the information with a copy of the information requested in such formats as the Bureau may require.'' [572] The Bureau believes it is appropriate to align the formats in which a financial institution may make its disclosure statement available to the public with the formats in which it may make its modified loan application register available to the public.[573] Accordingly, the Bureau is proposing to modify comment 5(b)–2 to provide that an institution may make the notice required under proposed § 1003.5(b)(2) available in paper or electronic form. The Bureau seeks feedback on this proposal.

5(c) Public Disclosure of Modified Loan Application Register

HMDA section 304(j)(1) requires that financial institutions make available to the public, upon request, ''loan application register information'' as defined by the Bureau and in the form required under regulations prescribed by the Bureau. HMDA section 304(j)(2) provides that the Bureau shall require such deletions from the loan application register information made available to the public as the Bureau may determine to be appropriate to protect any privacy interest of any applicant and to protect financial institutions from liability under any Federal or State privacy law, and identifies three fields in particular as appropriate for deletion.[574] HMDA section 304(j)(5) requires that the loan application register information described in section 304(j)(1) must be made available as early as March 31 following the calendar year for which the information was compiled. HMDA section 304(j)(7) provides that the Bureau shall make every effort to minimize costs incurred by financial institutions in complying with section 304(j).

Section 1003.5(c) of Regulation C requires a financial institution to make its loan application register available to the public after removing three fields to protect applicant and borrower privacy: The application or loan number, the date that the application was received, and the date action was taken. An institution must make this ''modified'' loan application register publicly available following the calendar year for which the data are compiled by, March 31 for a request received on or before March 1, and within 30 calendar days for a request received after March 1. The modified loan application register need only contain data relating to the MSA or MD for which the request is made. Comment 5(c)–1 explains that a financial institution may make the modified loan application register

[570] Under current § 1003.5(b)(3), for example, a member of the public that requests a disclosure statement at a branch office must only be provided with a disclosure statement containing data relating to the MSA or MD where the branch is located. Referral to the FFIEC Web site would allow that member of the public to easily view the financial institution's disclosure statements for all MSAs and MDs. Also, to the extent a member of the public wanted to compare the lending activities of financial institutions in a particular MSA or MD, the FFIEC Web site allows her to do so all in one place, rather than requiring her to obtain disclosure statements from multiple institutions.

[571] The Bureau notes that, as reflected in proposed comment 5(b)–3, its proposal does not require financial institutions to update each year the notice required under proposed § 1003.5(b)(2). Accordingly, the requirement that a financial institution make the notice available ''within three business days'' after receiving notice that its disclosure statement is available will be meaningful for a financial institution only in the year that it first reports HMDA data under revised Regulation C.

[572] Dodd-Frank Act section 1094(3)(E), 12 U.S.C. 2803(m)(1).

[573] Comment 5(c)–1 allows a financial institution to make its modified loan application register available in either paper or electronic form.

[574] The fields identified in the statute as appropriate for deletion are ''the applicant's name and identification number, the date of the application, and the date of any determination by the institution with respect to such application.'' HMDA section 304(j)(2)(B).

available in paper or electronic form and that, although institutions are not required to make the modified loan application register available in census tract order, they are strongly encouraged to do so in order to enhance its utility to users.

For the reasons discussed below, the Bureau is proposing to modify § 1003.5(c) to require that a financial institution make available to the public a modified loan application register showing only the data fields that currently are released on the modified loan application register. The Bureau is proposing new comment 5(c)–3 to clarify that a modified loan application register made available to the public by a financial institution that reports its HMDA data on a quarterly basis under proposed § 1003.5(a)(1)(ii) must show data for the entire calendar year. The Bureau seeks comment on whether it should except smaller financial institutions from the obligation to release a modified loan application register.

As discussed above in part II.C, the Bureau's assessment under its balancing test of the risks to privacy interests created by the disclosure of HMDA data and the benefits of such disclosure is ongoing. Based on its analysis thus far, however, the Bureau believes that some of the new data points required or permitted by the Dodd-Frank Act and proposed by the Bureau may raise privacy concerns sufficient to warrant some degree of modification, including redaction, before they are disclosed to the public. This has two implications for the future release of loan-level HMDA data.[575] First, wherever the Bureau considers modifying HMDA data before it is made available to the public, it will consider strategies to preserve the utility of the data subject to modification. These strategies may include, but may not be limited to, various disclosure limitation techniques, such as techniques aimed at masking the precise value of certain data points.[576] While such techniques can address privacy and data utility concerns, the Bureau is mindful that requiring financial institutions to apply them in order to prepare the modified loan application register may impose undue burden on financial institutions and may increase the risk of errors that could result in the unintended disclosure of data or other error.

Second, the Bureau believes that any privacy risks created by the disclosure of loan-level HMDA data may evolve over time. For example, technological developments in areas such as data aggregation and mining and the availability of new public sources of data may increase, decrease, or otherwise alter the likelihood and nature of potential privacy harms that could result from the public disclosure of loan-level HMDA data. Evolving privacy risks may warrant changes to the privacy protections applied to HMDA data disclosed to the public. Changing the modifications a financial institution must make to the modified loan application register in order to protect applicant and borrower privacy interests would require amendments to Regulation C that may impose undue costs on financial institutions and delay the implementation of the changes.

Based on these considerations,[577] the Bureau believes it may be appropriate to require that financial institutions include on their modified loan application registers only the data fields that currently are released on the modified loan application register.[578] The Bureau believes this approach would avoid creating new privacy risks or liabilities for financial institutions in connection with the release of loan-level data via the modified loan application register. It would also minimize the burden to institutions associated with preparing their modified loan application registers to implement amendments to Regulation C. The proposed approach would allow the Bureau and the other agencies flexibility in disclosing new data points in the agencies' data release, including flexibility to adjust any privacy protections as risks evolve, without unduly burdening financial institutions or creating opportunities for the modified loan application register and the agencies' data release to interact in ways that might increase privacy risk.[579]

The Bureau has concerns about the impact such a proposal may have on members of the public that regularly use modified loan application registers. Although the Bureau has received feedback that requests for modified loan applications registers are infrequently received at many institutions, the Bureau believes that a small number of HMDA data users routinely request modified loan application registers from large financial institutions. The Bureau understands that this practice is driven primarily by the timing of the agencies' data release: Whereas a financial institution must make available its modified loan application register as early as March 31, the agencies' loan-level HMDA data currently are not released until almost six months later, in September. The Bureau notes that it intends to coordinate with the other agencies to explore processing improvements that may allow the agencies' data release to be made available to the public, in the future, closer to March 31 than is the current practice.

For the reasons described above, the Bureau is proposing to modify § 1003.5(c) to provide that a financial institution shall make its loan application register available to the public after, for each entry: Removing the information required to be reported under § 1003.4(a)(1), the date required to be reported under § 1003.4(a)(8), the postal address required to be reported under proposed § 1003.4(a)(9), the age of the applicant or borrower required to be reported under proposed § 1003.4(a)(10), and the information required to be reported under proposed § 1003.4(a)(15) and (a)(17) through (39); and rounding the information required to be reported under proposed § 1003.4(a)(7) to the nearest thousand.[580] Proposed comment 5(c)–2

[575] As discussed above in part II.C, the FFIEC releases annually, on behalf of the Bureau and other agencies, a public loan-level dataset containing reported HMDA data for the preceding calendar year (the agencies' data release). Deleted from this release are the same three fields that are deleted from the modified loan application register that financial institutions make available.

[576] See *supra* note 122 for examples of these techniques.

[577] The Bureau notes that, as part of its efforts to improve and modernize HMDA operations, it is exploring technological solutions that may allow the Bureau to apply appropriate privacy protections to the modified loan application register. These solutions, if realized, and would reduce burdens on financial institutions related to preparing the modified loan application register and otherwise impact the considerations described herein.

[578] Because the Bureau proposes to modify some of the existing HMDA data points, the data disclosed on the modified loan application register under this proposal will not be exactly the same as under current Regulation C in some respects. *See* proposed § 1003.4(a)(5) (replacing property type with construction method), 1003.4(a)(6) (providing more detail on owner-occupancy status), 1003.4(a)(10) (modifying and clarifying income reporting for various reporting scenarios), 1003.4(a)(13) (requiring additional information on HOEPA status), 1003.4(a)(14) (requiring additional information about lien priority).

[579] For example, if the modified loan application register were to disclose more data fields, or more granular data, than was disclosed in the agencies' data release, the modified loan application register could be used to reverse engineer the agencies' data release and undermine privacy protections applied to that release. Accordingly, limiting the data disclosed on the modified loan application register would allow the agencies flexibility in their data release, including to adjust privacy protections as risks evolve.

[580] Currently under Regulation C, financial institutions report loan amount rounded to the nearest thousand. *See* paragraph I.A.7 of appendix A. Proposed instruction 4(a)(7)–1 modifies this requirement to provide that loan amount is reported in dollars. The Bureau proposes that financial institutions round loan amount to the nearest thousand before making available to the public their

explains how a financial institution should round the loan amount on their modified loan application register and provides an illustrative example. The Bureau solicits comment concerning whether this proposal is appropriate.

The Bureau is aware that concerns have been raised that data currently disclosed on the modified loan application register may create risks to borrower and applicant privacy.[581] As discussed above, the Bureau is considering all data reported under HMDA in its privacy assessment, including data currently disclosed. However, the Bureau is unaware of any misuse of the currently-disclosed loan-level HMDA data, which has been made available to the public annually since 1991. The Bureau is also aware that some of these data are publicly available, such as in county land transfer records. The Bureau solicits comment concerning any risks to applicant or borrower privacy interests posed by the continued release of currently-released data fields on the modified loan application register. The Bureau also solicits comment concerning the benefits of disclosure of the currently-released fields for HMDA purposes.

Proposed comment 5(c)–3 clarifies that the modified loan application register is the loan application register reflecting all data reported for a calendar year, modified as described in § 1003.5(c)(1), whether the data were submitted on a quarterly or annual basis. Financial institutions that report on a quarterly basis under proposed § 1003.5(a)(1)(ii) must show on their modified loan application register data reported for the calendar year, not just data reported for a particular quarter.

The Bureau seeks comment on whether it should except, pursuant to its authority under HMDA section 305(a), smaller financial institutions from the requirement under § 1003.5(c) that a financial institution make available to the public its modified loan application register. During the Small Business Review Panel process, the Bureau heard from small entity representatives that they rarely if ever receive requests for their modified loan application registers. The Small Business Review Panel recommended that the Bureau consider whether there is a continued need for small financial institutions to make their modified loan application registers available to the public.[582] The Bureau solicits comment on whether such an exception from the obligation to make a modified loan application register available to the public is desirable and, if so, which financial institutions should qualify for the exception, including whether such exception should align with the quarterly reporting threshold proposed in § 1003.5(a)(1)(ii).[583]

5(d) Availability of Data

HMDA sections 304(c) and 304(j)(6) set forth the time periods for which financial institutions must maintain and make available information required to be disclosed under the statute. HMDA sections 304(j)(4) and 304(k)(3) permit a financial institution that provides its loan application register information or its disclosure statement to a member of the public to impose a reasonable fee for any cost incurred in reproducing the information or statement. Section 1003.5(d) of Regulation C requires that a financial institution must make its modified loan application register available to the public for a period of three years and its disclosure statement available to the public for a period of five years. This section also provides that an institution must make these disclosures available to the public for inspection and copying during the hours the office is normally open to the public for business and may impose a reasonable fee for any cost incurred in providing or reproducing the data. The Bureau is proposing to delete the requirement that a financial institution make its HMDA data available for inspection and copying and to make additional technical modifications to § 1003.5(d).

Section 1003.5(d) requires that an institution shall make its data available for inspection and copying during the hours the office is normally open to the public. This language suggests that a member of the public seeking a financial institution's disclosure statement or modified loan application register could require the financial institution to permit him to reproduce these documents himself at the financial institution's office. The Bureau believes that preserving this option is unnecessary and may be burdensome to financial institutions. The Bureau proposes to modify § 1003.5(d) to delete reference to inspection and copying and seeks comment on whether this proposed modification is appropriate.

5(e) Notice of Availability

HMDA section 304(m) provides that a financial institution shall be deemed to have satisfied the public availability requirements of HMDA section 304(a) if it compiles its HMDA data at its home office and provides notice at certain branch locations that its information is available upon written request. Section 1003.5(e) of Regulation C requires that a financial institution post a notice concerning the availability of its HMDA data in the lobby of its home office and of each branch office located in an MSA and MD. Section 1003.5(e) also requires that a financial institution must provide, or the posted notice must include, the location of the institution's office where its disclosure statement is available for inspection and copying. Comment 5(e)–1 suggests text for the posted notice required under § 1003.5(e). Comment 5(e)–2 suggests text concerning disclosure statements that may be included in the posted notice to satisfy § 1003.5(b)(3)(ii). The Bureau is proposing conforming, clarifying, and technical modifications to § 1003.5(e).

Under proposed § 1003.5(b)(2), a financial institution shall make its disclosure statement available to the public by making available at its home office and at each branch office located in each MSA and each MD a notice that clearly conveys that the institution's disclosure statement may be obtained on the FFIEC Web site and that includes the FFIEC's Web site address. If this proposal is adopted, a financial institution's disclosure statement would be available online and the notice advising of this fact would be available in every branch office located in an

modified loan application registers so that loan amount is shown on the modified loan application register as it is under current Regulation C.

[581] The Bureau and the Board before it have received feedback that certain data fields disclosed in the HMDA loan-level data releases, including financial institution name, loan amount, and census tract, might be used in some circumstances to identify individual applicants or borrowers. *See, e.g.,* Small Business Review Panel Report at 35 (reflecting concern expressed by small entity representative that, ''especially in less populated areas, the modified loan application register could be compared to public records to identify borrowers''). In other contexts, it has been suggested that loan-level disclosure of borrower income, which is currently disclosed on the modified loan application register, may raise privacy concerns. *See, e.g.,* Div. of Corp. Fin., U.S. Sec. and Exch. Comm'n, *Disclosure of Asset-Level Data* 14 (Feb. 25, 2014), *available at http://www.sec.gov/comments/s7-08-10/s70810-258.pdf* (suggesting that borrower income raises privacy concerns; this memorandum relates to the SEC's decision to re-open the comment period for two proposed rules concerning the offering, disclosure, and reporting requirements for asset-backed securities, *see* 79 FR 11361, 11362 n.5 (Feb. 28, 2014)).

[582] *See* Small Business Review Panel Report at 43.

[583] Proposed § 1003.5(a)(1)(ii) requires a financial institution that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, for the preceding calendar year to submit its loan application register to the agencies on a quarterly, rather than annual, basis. If the threshold to exclude a financial institution from the obligation to make available to the public a modified loan application register were aligned with the threshold proposed in § 1003.5(a)(1)(ii), only financial institutions required to report on a quarterly basis would be required to make a modified loan application register available to the public under § 1003.5(c).

MSA or MD, rendering unnecessary the current § 1003.5(e) requirement that an institution provide the location of the office where the disclosure statement is available for inspection and copying or include the location in the posted notice. Accordingly, the Bureau is proposing to remove from § 1003.5(e) the requirement that an institution provide, or its posted notice include, the location of the institution's office where its disclosure statement is available for inspection and copying. The Bureau solicits comment on whether this proposal is appropriate. The Bureau is proposing to delete comment 5(e)–2 to conform to the deletion of proposed § 1003.5(b)(3).

The Bureau is also proposing to clarify that the notice required under § 1003.5(e) must be posted in a financial institution's home office and in each branch office located in an MSA or MD. Finally, the Bureau is proposing to make minor technical modifications to comment 5(e)–1. These include adding language to the suggested content for the notice required under § 1003.5(e) to highlight that HMDA data include the age of applicants and borrowers and to provide additional information about the online availability of HMDA data. The Bureau solicits feedback on whether these changes are appropriate.

5(f) Aggregation

HMDA section 310 requires the FFIEC to compile aggregate data by census tract for all financial institutions reporting under HMDA and to produce tables indicating aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics. HMDA section 304(f) requires the FFIEC to implement a system to facilitate access to data required to be disclosed under HMDA section 304, including arrangements for central depositories where such data are made available for inspection and copying. Section 1003.5(f) of Regulation C provides that the FFIEC will produce reports for individual institutions and reports of aggregate data for each MSA and MD, showing lending patterns by property location, age of housing stock, and income level, sex, ethnicity, and race, and will make these reports available at central depositories. Section 1003.5(f) also contains information concerning how to obtain a list of central depositories from the FFIEC. For the reasons discussed below, the Bureau is proposing two modifications to § 1003.5(f).

The Bureau understands that the FFIEC has not made HMDA data available at brick-and-mortar central depositories since approximately the mid-2000s. Instead, since at least the early 2000s, the FFIEC has made data required to be disclosed under HMDA, including the data required under HMDA section 310, readily available at no cost to the public on its Web site. The Bureau concludes that sole reliance on the FFIEC Web site to publish HMDA data satisfies HMDA section 304(f). The Web site provides a single, convenient place for public officials and members of the public to inspect and copy all public HMDA data, and thus qualifies as a central depository: Access is available through any computer with internet connectivity, and the Web site constitutes an effective system for facilitating access to HMDA data. The Bureau also concludes, pursuant to HMDA section 305(a), that this means of providing access to HMDA data is necessary and proper to effectuate HMDA's purposes and facilitate compliance therewith. Accordingly, the Bureau is proposing to delete reference to central depositories in § 1003.5(f) and to instead explicitly reference the data's availability on the FFIEC Web site, to conform to current practices.

The Bureau also proposes to replace the word ''produce'' with ''make available'' in § 1003.5(f) for clarity. The Bureau believes that advances in technology may permit, for example, the FFIEC to produce an online tool, such as a tabular engine, that would allow public officials and members of the public to generate the tables described in HMDA section 310. It is the Bureau's interpretation that the obligation to ''produce tables'' set forth in HMDA section 310 would be satisfied if the FFIEC produced such a tool, which in turn would produce the tables described in HMDA section 310 on request. The Bureau proposes to modify the language in § 1003.5(f) to clarify that such developments are accommodated by this section. Further, pursuant to HMDA section 305(a), the Bureau believes that permitting the FFIEC to produce a tool that allows members of the public to generate tables described in HMDA section 310 is necessary and proper to effectuate the purposes of HMDA and facilitate compliance therewith.

The Bureau solicits feedback on whether these proposed modifications to § 1003.5(f) are appropriate.

Section 1003.6 Enforcement

6(b) Bona Fide Errors

During the Small Business Review Panel process, some small entity representatives raised concerns regarding reporting errors. Small entity representatives expressed concern that adoption of any new data points would make financial institutions more vulnerable to being cited in examinations for reporting errors that they consider minor, but in total exceed their supervisory agencies' tolerances for reporting accurate HMDA information.[584] Some small entity representatives suggested that tolerances for errors be increased if additional data points were added to Regulation C.[585] One small entity representative recommended that error rates be judged by the total number of data points contained in the loan application register entries sampled rather than by the number of entries sampled.[586] Another small entity representative noted that strict tolerances for errors increased HMDA compliance costs because they required substantial review of loan application registers for precision.[587]

Section 1003.6(b) of Regulation C provides that an error in compiling and recording loan data is not a violation of HMDA or Regulation C if the error was unintentional and occurred despite the maintenance of procedures reasonably adapted to avoid such errors; that census tract reporting errors are not violations if an institution maintains procedures reasonably adapted to avoid such errors; and that, if an institution makes a good faith effort to record all data concerning covered transactions fully and accurately within thirty calendar days after the end of each calendar quarter, and some data are nevertheless inaccurate or incomplete, the error or omission is not a violation of HMDA or Regulation C provided that the institution corrects or completes the information prior to submitting the loan application register to its regulatory agency. The Bureau is not proposing specific changes to § 1003.6(b). However, the Bureau is concerned about the issues related to errors raised by the small entity representatives. The Bureau is seeking feedback generally regarding whether, in light of the new proposed reporting requirements, it would be appropriate to add new provisions to § 1003.6 to clarify compliance expectations and address compliance burdens or operational challenges. The Bureau is seeking feedback on whether a more precise definition of what constitutes an error would be helpful, whether there are ways to improve the current methods of calculating error rates, and whether tolerance levels for error rates would be appropriate.

[584] *See* Small Business Review Panel Report at 21.
[585] *See* Small Business Review Panel Report at 21.
[586] *See* Small Business Review Panel Report at 97.
[587] *See* Small Business Review Panel Report at 55.

VI. Section 1022(b)(2) of the Dodd-Frank Act

The Bureau is considering the potential benefits, costs, and impacts of the proposed rule.[588] The Bureau requests comment on the preliminary discussion presented below, as well as submissions of additional data that could inform the Bureau's consideration of the benefits, costs, and impacts of the proposed rule. In developing the proposed rule, the Bureau has consulted with or offered to consult with the prudential regulators (the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency), the Department of Justice, the Department of Housing and Urban Development, the Federal Housing Finance Agency, the Securities and Exchange Commission, and the Federal Trade Commission regarding, among other things, consistency with any prudential, market, or systemic objectives administered by such agencies.

As discussed in greater detail elsewhere throughout this supplementary information, in this rulemaking, the Bureau is proposing to amend Regulation C, which implements HMDA, and the official commentary to the regulation, as part of the Bureau's implementation of the Dodd-Frank Act amendments to HMDA regarding the reporting and disclosure of mortgage loan information. The proposed amendments to Regulation C implement section 1094 of the Dodd-Frank Act, which made certain amendments to HMDA.[589]

In addition, the proposal includes additional amendments to Regulation C to implement the Dodd-Frank Act's provisions permitting reporting of, as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator, a universal loan identifier, and the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral. The proposed rule would also require financial institutions to report additional information pursuant to authority under sections 304(b)(5)(D) and 304(b)(6)(J) of HMDA, which permit the disclosure of such other information as the Bureau may require, and section 305(a) of HMDA, which, among other things, broadly authorizes the Bureau to prescribe such regulations as may be necessary to carry out HMDA's purposes. Certain additional data points included in the proposed rule are not specifically identified by the Dodd-Frank Act amendments to HMDA.[590]

The proposed rule would also modify the regulation's institutional and transactional coverage by, among other things, requiring financial institutions to report activity only for dwelling-secured loans, regardless of whether the loans are for home purchase, home improvement, or refinancing; adjusting the institutional coverage to adopt a uniform loan-volume threshold of 25 loans applicable to all financial institutions; and requiring financial institutions to report data on applications and accounts opened for home-equity lines of credit.

Furthermore, the Bureau is proposing to modify the frequency of reporting for certain financial institutions with large numbers of transactions, modify the requirements regarding the disclosure statement, and specify the form required for the loan application register information that HMDA reporters must make available to the public. Financial institutions that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, for the preceding calendar year, would be required to report data quarterly to the Bureau or to the appropriate Federal agency. Financial institutions would be permitted to make their disclosure statements available to the public by providing, upon request, a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site and that includes the Web site address. Under the proposed regulation, financial institutions would make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register.

The Bureau is also separately considering several operational improvements designed to reduce the burden associated with reporting HMDA data. The Bureau is considering restructuring the geocoding process, creating an improved web-based HMDA Data Entry Software (DES), and otherwise streamlining the submission and editing process to make it more efficient. The Bureau is also proposing to align the HMDA data requirements with the widely-used MISMO data standards for residential mortgages to the extent practicable.

As discussed in greater detail elsewhere in this supplementary information, HMDA requires lenders located in metropolitan areas to report data about their housing-related lending activity. In 2010, Congress responded to the mortgage crisis with the Dodd-Frank Act, which enacted changes to HMDA and directed reforms to the mortgage market and the broader financial system. In addition to transferring rulemaking authority for HMDA from the Board to the Bureau, the Dodd-Frank Act directed the Bureau to implement changes requiring the collection and reporting of several new data points and such other information as the Bureau may require. In doing so, Congress sought to ensure that HMDA data continue to be useful for determining whether institutions are serving the housing needs of their communities, for identifying potentially discriminatory lending patterns, and for helping public officials target public investment to

[588] Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

[589] These amendments, among other things, require financial institutions to itemize their HMDA data by: The age of mortgagors and mortgage applicants; points and fees payable at origination in connection with a mortgage; the difference between the annual percentage rate associated with a loan and a benchmark rate or rates for all loans; the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; the value of the real property pledged or proposed to be pledged as collateral; the actual or proposed term in months of any introductory period after which the rates of interest may change; the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term; the actual or proposed term in months of the mortgage; the channel through which the mortgage application was made, including retail, broker, and other relevant categories; and the credit score of mortgage applicants and mortgagors.

[590] These additional data include: The construction method for the dwelling related to the subject property; mandatory reporting of the reasons for denial of a loan application; the total origination charges associated with the loan; the total points paid to the lender to reduce the interest rate of the loan; the interest rate the borrower would have received if the borrower had not paid any bona fide discount points; the interest rate applicable to the covered loan at closing or account open; the applicant's or borrower's debt-to-income ratio; the ratio of the total amount of debt secured by the property to the value of the property; whether a manufactured home is legally classified as real property or as personal property; the land property interest for loans or applications related to manufactured housing; the total number of individual dwelling units contained in the dwelling related to the loan; the number of individual dwellings units that are income-restricted pursuant to Federal, State, or local affordable housing programs; information related to the automated underwriting system used in evaluating an application; whether the loan is a reverse mortgage, and whether the reverse mortgage is an open- or closed-end transaction; whether the loan is a home-equity line of credit; whether the loan is a qualified mortgage; and the amount of the draw on a home-equity line of credit and on an open-end reverse mortgage.

attract private investment where it is needed.

A. Provisions To Be Analyzed

The proposal contains both specific proposed provisions with regulatory or commentary language (proposed provisions) as well as requests for comment on modifications where regulatory or commentary language was not specifically included (additional proposed modifications). The discussion below considers the benefits, costs, and impacts of the following major proposed provisions and the additional proposed modifications:

1. The scope of the institutional coverage of the proposed rule.
2. The scope of the transactional coverage of the proposed rule.
3. The data that financial institutions are required to report about each loan or application.
4. The proposed modifications to disclosure and reporting requirements.

With respect to each major proposed provision, the discussion considers the benefits, costs, and impacts to consumers and covered persons. The discussion also addresses certain alternative provisions that were considered by the Bureau in the development of the proposed rule. The Bureau requests comment on the consideration of the potential benefits, costs, and impacts of the proposed rule.

B. Statement of Need

1. HMDA's Purposes and the Current Deficiencies in Regulation C

Congress intended HMDA to provide the public and public officials with information to help determine whether financial institutions are serving the housing needs of their communities, to target public investment to attract private investment in communities, and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes. Today, HMDA data are the preeminent data source for regulators, researchers, economists, industry, and advocates analyzing the mortgage market both for the three stated purposes of HMDA and for general market monitoring. For example, HMDA data are used by bank supervisors to evaluate depository institutions for purposes of the CRA; by local groups as the basis for discussions with lenders about local community needs; and by regulators, community groups, and researchers to identify disparities in mortgage lending that may provide evidence of prohibited discrimination. In addition, HMDA data provide a broadly representative, national picture of home lending that is unavailable from any other data source. This information permits users to monitor market conditions and trends, such as the supply and demand of applications and originations. For example, industry uses HMDA data to identify and meet the needs of underserved markets through potentially profitable lending and investment opportunities.

HMDA data include records regarding applications by mortgage borrowers and records regarding the flow of funding from lenders to borrowers. Together, these records form a near-census of the home mortgage market for covered loans and applications, with rich geographical detail (down to census tract level) and identification of the specific financial institution for each transaction. Therefore, HMDA allows users to draw a detailed picture of the supply and demand of mortgage credit at various levels of geography and lender aggregation.

Despite past improvements, however, serious inadequacies exist in the information currently collected under Regulation C. HMDA data can generally be used to calculate underwriting and pricing disparities across various protected classes in mortgage lending, at the national, market, and individual-lender levels. Nevertheless, the data lack key fields that explain legitimate underwriting and pricing decisions for mortgage loans. Therefore, in most cases, HMDA data alone cannot demonstrate whether borrowers and applicants have received nondiscriminatory treatment by financial institutions. Additional proposed data points, such as credit score, AUS recommendations, CLTV, and DTI, would help users understand the reasons for approvals and denials of applications and for pricing decisions regarding originations. Similarly, current HMDA data provide certain information about borrowers (race, ethnicity, sex, income, and location) and loans (loan amount, purpose, loan type, occupancy, lien status, and property type). However, the current data points do not fully characterize the types of loans for which consumers are applying and do not explain why some applications are denied. The additional proposed data points, such as non-amortizing features, prepayment penalties, and loan terms, would help fill these important information gaps.

Additionally, analysis of the cost of credit to mortgage borrowers is incomplete without the inclusion of key pricing information. The current rate spread reporting requirement requires financial institutions to report rate spread only for higher-priced mortgage loans. Currently, such loans comprise less than 5 percent of total originations. These limited data restrict analysis of the cost of credit to a small segment of total mortgage originations and create severe selection bias as changes in the market lead to shifts in the average spreads between APR values and APOR. Adding the proposed pricing data fields, such as discount points, risk-adjusted, pre-discounted interest rate, origination charges, interest rate, and total points and fees, will allow users to better understand the price that consumers pay for mortgages and more effectively analyze the tradeoffs between rates, points, and fees.

HMDA also currently provides limited information about the property that secures or will secure the loan. Despite being one of the most important characteristics for underwriting and pricing decisions, the value of the property securing the loan has not been collected under the current HMDA reporting requirements. The proposed rule would address this deficiency by providing for reporting of the value of the property securing the covered loan or application. Current HMDA data also lack information about the manufactured housing segment of the mortgage market. Manufactured housing is an important source of housing for many borrowers, such as low-income and elderly borrowers, that are often financially fragile and possibly more vulnerable to unfair and predatory practices.[591] Multifamily financing for both institutional and individual borrowers serves the housing needs of multifamily unit dwellers who are mostly renters and many of whom face challenges related to housing affordability. The Bureau's proposal would provide for reporting of the construction method, number of multifamily affordable units, manufactured housing security type, and property interest. The improved data would help community groups, government agencies, researchers, members of the public, and industry to better understand the properties for

[591] Eric S. Belsky & Mark Duda, ''Anatomy of the Low-Income Homeownership Boom in the 1990s,'' in *Low Income Homeownership: Examining the Unexamined Goal* 15–63, Joint Center for Housing Studies of Harvard University Low-Income Homeownership Working Paper Series 01–1 (2001) (providing evidence that manufactured housing was an important driver of the homeownership boom for the low-income population in the 1990s). Manufactured housing is also an important source of housing for the elderly. *See* Robert W. Wilden, Comm'n on Affordable Housing and Health Facility Needs for Seniors in the 21st Century, *Manufactured Housing and Its Impact on Seniors* (2002).

which borrowers are receiving or being denied credit.

Finally, the transactional coverage criteria omit a large proportion of dwelling-secured loan products, such as home-equity lines of credit. In the lead-up to the financial crisis between 2000 and 2008, the total balance of closed- and open-end home-equity loans increased by approximately 16.8 percent annually, growing from a total of $275.5 billion to $953.5 billion. Recent research has shown that this growth in home-equity lending was correlated with subsequent home price depreciation, as well as high default and foreclosure rates among first mortgages.[592] These correlations were driven in part by consumers using home-equity lines of credit to fund investment properties, which impacted default rates when housing prices began to fall. By identifying home-equity lines of credit and loan purposes, industry, members of the public, and public officials will be better able to identify and respond to similar patterns in the future.

Congress recognized the current deficiencies in HMDA, and responded with the Dodd-Frank Act, which amended HMDA and provided broader reforms to the financial system. The Dodd-Frank Act's amendments to HMDA require the collection and reporting of several new data points, including information about borrowers (age and credit score), information about loan features and pricing, and, as the Bureau may determine to be appropriate, unique identifiers for loans, properties, and loan originators. It also authorizes the Bureau to require financial institutions to collect and report ''such other information as the Bureau may require.''

2. Improving HMDA Data To Address Market Failures

HMDA does not regulate the interactions between lenders and borrowers. Instead, HMDA requires financial institutions to report detailed information to their Federal supervisory agencies and to the public about mortgage applications and originations at the transaction level. Such information provides an important public good that illuminates the lending activities of financial institutions and the mortgage market in general. This increased transparency allows members of the public, community groups, and public officials to better assess compliance with various Federal laws and regulations. In doing so, HMDA data help correct the potential market failures that those laws and regulations were designed to address.

From the perspective of economics, the proposed improvements to HMDA would address two market failures: (1) The under-production of public mortgage data by the private sector, and (2) the information asymmetries present in credit markets.

First, HMDA data is a public good in that it is both non-rival, meaning that it may be used without reducing the amount available for others, and non-excludable, meaning that it cannot be withheld from consumers who do not pay for it. As with other public goods, standard microeconomic principles dictate that public mortgage data would be under-produced by the private sector, creating an outcome that is not socially optimal. Not surprisingly, no privately produced loan-level mortgage databases with comprehensive national coverage exist that are easily accessible by the public. Private data vendors offer a few large databases for sale that typically contain data collected from either the largest servicers or securitizers. However, none of these databases match the near-universal coverage of the HMDA data.[593] Furthermore, commercial datasets come at high cost to subscribers, creating a substantial hurdle for community groups, government agencies, and researchers that wish to obtain access. Importantly, these commercially available datasets typically do not identify individual lenders and therefore cannot be used to study whether specific lenders are meeting community needs or making nondiscriminatory credit decisions. In addition, all privately produced, commercially available mortgage databases cover only originated loans and exclude applications that do not result in originations. A crucial feature of the HMDA data is that they include information about applications in addition to originations. In other words, in economic terms, private mortgage databases only provide information about the market outcome resulting from the intersection of supply and demand, while HMDA data provide information about both the market outcome and the demand for credit. Thus, users can examine both supply and demand regarding mortgage credit and understand the reasons for discrepancies between supply and demand at various levels of analysis, including by lender, geographic region, type of product or feature, credit risk, income, and race or ethnicity.

Second, it is well-accepted that credit markets are characterized by information asymmetries. Mortgage products and transactions are highly complex, and lenders have a significant information advantage. Such information asymmetry affects price and quantity allocations and can contribute to types of lender behavior, such as discrimination or predatory lending, that conflict with the best interests of consumers. In addition to disadvantaging individual consumers, information failure may also lead to herding behavior by both lenders and consumers, creating substantial systemic risk to the mortgage market and the nation's overall financial system. The recent mortgage crisis provides a vivid demonstration of such a threat to the overall safety and stability of the housing market.

These market failures are intertwined. Following the financial crisis, the Bureau and other government regulators have attempted to directly address misallocation, enhance consumer protection, and stem systemic risk in the mortgage market through rules that regulate the business practices of financial institutions. In contrast, the proposed rule provides another approach to solving failures in the mortgage market: Correcting the informational market failure. Increased mortgage data would provide greater transparency about the mortgage market, weakening the information advantage that lenders possess relative to borrowers, community groups, and public officials. Greater information enables these groups to advocate that financial institutions adopt fairer practices and increases the prospect that self-correction by financial institutions would be rewarded. Additional information would also help reduce the herding behavior of both lenders and borrowers, reducing the systemic risk that has been so detrimental to the nation. Mandatory sharing of information may lead to more efficient outcomes. Thus, as a public good that reduces information asymmetry in the mortgage market, HMDA data are irreplaceable.

Finally, the proposed rule would meet the compelling public need for improved efficiency in government operations. The new data would allow the government to more effectively assess compliance by financial institutions with the Equal Credit Opportunity Act and the Fair Housing Act. The new data will also help regulatory agencies assess the performance of certain financial

[592] Michael LaCour-Little, Wei Yu, and Libo Sun, *The Role of Home Equity Lending in the Recent Mortgage Crisis,* 42 Real Estate Economics 153 (2014).

[593] Although limited transactions and institutions are excluded from HMDA, these are also typically excluded from commercial datasets.

institutions under the Community Reinvestment Act. Improved HMDA data would also provide valuable information that supports future market analyses and optimal policy-making.

C. Baseline for Consideration of Costs and Benefits

The Bureau has discretion in any rulemaking to choose an appropriate scope of consideration with respect to potential benefits and costs and an appropriate baseline. The Bureau does not believe the amendments to HMDA in section 1094 of the Dodd-Frank Act would take effect automatically without implementing rules. Financial institutions are not required to report additional data required by section 304(b)(5) and (6) of HMDA, as amended, ''before the first January 1 that occurs after the end of the 9-month period beginning on the date on which regulations are issued by the Bureau in final form with respect to such disclosures.'' [594] Furthermore, financial institutions are unable to comply with the obligation to report data regarding the age of mortgagors and mortgage applicants, which is required pursuant to section 304(b)(4) of HMDA, until the Bureau provides the necessary guidance on the manner of such reporting, including modification of the loan application register to accommodate the reporting of age data. Therefore, the Bureau believes that the requirements to report all of the new data elements under HMDA section 304(b)(4)–(6) cannot be effective until the Bureau completes a rulemaking with respect to the reporting of such data. Accordingly, this analysis considers the benefits, costs, and impacts of the major provisions of the proposed rule against a pre-Dodd-Frank Act baseline, *i.e.,* the current state of the world before the provisions of the Dodd-Frank Act that amended HMDA are implemented by an amended Regulation C. The Bureau believes that such a baseline will also provide the public with better information about the benefits and costs of the statutory amendments to HMDA.

D. Coverage of the Proposed Rule

Each proposed provision applies to certain financial institutions, and requires these financial institutions to report and disclose data regarding covered loans secured by a dwelling that they originate or purchase, or for which they receive applications, as described further in each section below.

[594] Public Law 111–203, section 1094(3)(F).

E. Basic Approach of the Bureau's Consideration of Benefits and Costs and Data Limitations

This discussion relies on data that the Bureau has obtained from industry, other regulatory agencies, and publicly available sources. However, as discussed further below, the data limit the Bureau's ability to quantify the potential costs, benefits, and impacts of the proposed rule.

1. Costs to Covered Persons

Regarding the costs to covered persons, the proposed rule generally establishes which financial institutions, transactions, and data points are covered under HMDA's reporting requirements. In order to precisely quantify the costs to covered persons, the Bureau would need, for both current and potential HMDA reporters, representative data on the operational costs that financial institutions incur to gather and report HMDA data, one-time costs for financial institutions to update reporting infrastructure in response to the proposed rule, and information on the level of complexity of financial institutions' business models and compliance systems. Currently, the Bureau does not believe that data on HMDA reporting costs with this level of granularity is systematically available from any source. The Bureau has made reasonable efforts to gather data on HMDA reporting costs. Through outreach efforts with industry, community groups, and other regulatory agencies, the Bureau has obtained some information about ongoing operational and one-time compliance costs, and the discussion below uses this information to quantify certain costs of the proposed rule. The Bureau believes that the discussion constitutes the most comprehensive assessment to date of the costs of HMDA reporting by financial institutions. However, the Bureau recognizes that these calculations may not fully quantify the costs to covered persons, especially given the wide variation of HMDA reporting costs among financial institutions. The Bureau continues to seek data from available sources in order to better quantify the costs to covered persons.

More specifically, in considering the benefits, costs, and impacts of the proposed rule, the Bureau has engaged in a series of efforts to estimate the cost of compliance by covered entities. First, the Bureau attempted to understand and estimate the current cost of reporting for financial institutions, *i.e.* the baseline cost at the institution level. Second, the Bureau evaluated the change in financial institutions' operational and one-time costs in response to the proposed changes. Part VI.F, below, provides details on the Bureau's approach in performing these institution-level analyses. The Bureau realizes that costs vary by institution due to many factors, such as size, operational structure, and product complexity, and that this variance exists on a continuum that is impossible to fully represent. In order to conduct a cost consideration that is both practical and meaningful, the Bureau has chosen an approach that focuses on three representative tiers of financial institutions. For each tier, the Bureau has produced a reasonable estimate of the cost of compliance given the limitations of the available data. Part VI.F.2, below, provides additional details on this approach. More elaboration is available in the Small Business Review Panel Outline of Proposals and the Small Business Review Panel Report.[595]

The third stage of the Bureau's consideration of costs involved projecting and mapping the total number of potentially impacted financial institutions to the three tiers described above. The Bureau used a wide range of data in conducting this task, including current HMDA data, call reports, and NMLSR data.[596] The Bureau faced substantial challenges in completing this task, because no single data source provided complete coverage of all the financial institutions that could be impacted, and the data quality of some sources was less than perfect. For example, estimating the number of HMDA reporters that would be eliminated under the proposed rule was relatively easier than estimating the number of HMDA reporters that would be added. Similarly, the Bureau faced certain challenges in mapping the financial institutions to the three representative tiers. Where the Bureau is uncertain about the aggregate impacts, it has provided certain range estimates.

2. Costs to Consumers

Having generated estimates of the cost impact on covered financial institutions, the Bureau attempted to estimate the costs to consumers. According to economic theory, in a perfectly competitive market where financial institutions are profit maximizers, the

[595] *See* U.S. Consumer Fin. Prot. Bureau, *Small Business Review Panel for Home Mortgage Disclosure Act Rulemaking: Outline of Proposals Under Consideration and Alternative Considered* (Feb. 7, 2014) (Outline of Proposals), *available at http://files.consumerfinance.gov/f/201402_cfpb_hmda_outline-of-proposals.pdf.*

[596] NMLSR is a national registry of non-depository financial institutions, including mortgage loan originators.

affected financial institutions would pass on to consumers the marginal, i.e. variable, cost per application or origination, and absorb the one-time and increased fixed costs of complying with the rule. The Bureau received feedback through the Small Business Review Panel process that, if the market permitted, some small entities would attempt to pass on to consumers the entire amount of the increased cost of compliance and not just the increase in variable costs. Because the competiveness, supply-demand conditions, and impact of market failures may vary across different markets, the Bureau seeks additional comment on the costs to consumers.

3. Benefits to Consumers and Covered Persons

Quantifying benefits to consumers also presented substantial challenges. As discussed above, Congress intended for HMDA, including the Dodd-Frank Act amendments to the Act and the Bureau's rules implementing HMDA, to achieve compelling social benefits. The Bureau is unable to readily quantify some of these benefits with precision, both because the Bureau does not have the data to quantify all benefits and because the Bureau is not able to assess completely how effective the Dodd-Frank amendments to HMDA will be in achieving those benefits. As explained elsewhere in this supplementary information, the Bureau believes that its proposals appropriately implement the statutory amendments and are necessary and proper to effectuate HMDA's purposes. As discussed further below, as a data reporting rule, most provisions of the proposal would benefit consumers in indirect ways. Nevertheless, the Bureau believes that the impact of enhanced transparency would substantially benefit consumers. For example, the proposed rule would facilitate the detection and remediation of discrimination; promote public and private investment in certain under-served markets, potentially increasing access to mortgage credit; and promote more stable and competitive markets. Quantifying and monetizing these benefits would require identifying all possible uses of HMDA data, establishing causal links to the resulting public benefits, and then quantifying the magnitude of these benefits. The Bureau continues to seek data from available sources regarding the benefits to consumers of the proposed rule. The Bureau is particularly interested in the quantifiable impact of increased transparency on financial institution behavior, the need for public and private investment, the housing needs of communities, the number of lenders potentially engaging in discriminatory or predatory behavior, and the number of consumers currently being unfairly disadvantaged and the level of quantifiable damage from such disadvantage. The Bureau is unaware of data that would enable reliable quantitative estimates of all of these effects.

Similar issues arise in attempting to quantify the benefits to covered persons. Certain benefits to covered persons are difficult to quantify. For example, the Bureau believes that the enhanced HMDA data will facilitate improved monitoring of the mortgage market in order to prevent major disruptions to the financial system, which in turn would benefit financial institutions over the long run. But such effects are hard to quantify because they are largely related to future events that the proposed changes themselves are designed to prevent from happening. Similarly, the Bureau believes that the enhanced HMDA data will provide a better analytical basis for financial regulators and community groups to screen and monitor lenders for possible discrimination. Because of limitations in the current HMDA data fields, high false positive rates have been widely cited by financial institutions in various HMDA-related fair lending exams, complaints, and lawsuits. The proposed changes would greatly reduce the rate of false positives and therefore reduce the associated compliance burden on financial institutions. The Bureau believes that such benefits to financial institutions could be substantial. Nevertheless, quantifying them would require data that are currently unavailable.

In light of these data limitations, the discussion below generally provides a qualitative consideration of the benefits, costs, and impacts of the proposed rule. General economic principles, together with the limited data available, provide insight into these benefits, costs, and impacts. Where possible, the Bureau has made quantitative estimates based on these principles and the data that are available. The Bureau seeks comment on the appropriateness of the approach described above, including additional data relevant to the benefits and costs to consumers and covered persons.

F. Potential Benefits and Costs to Consumers and Covered Persons

1. Overall Summary

In this section, the Bureau presents a concise, high-level overview of the benefits and costs considered in the remainder of the discussion. This overview is not intended to capture all details and nuances that are provided both in the rest of the analysis and in the section-by-section discussion above, but rather to provide an overview of the major benefits and costs of the proposed rule.

Major benefits of the rule. The proposed rule has a number of major benefits. First, the proposed changes will improve the usefulness of HMDA data in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. By covering additional transactions, including mandatory reporting of open-end lines of credit, home-equity loans, reverse mortgages, and preapproval requests that were approved, but not accepted, and by requiring reporting by additional nondepository institutions, the proposal expands the scope of the market that community groups and government agencies can include in fair lending analyses. The addition of pricing data fields such as interest rate, discount points, and origination charges improves understanding of disparities in pricing outcomes beyond that permitted by the current rate spread data field. The addition of data fields such as CLTV, credit score, DTI, and AUS recommendations allow for a more refined analysis and understanding of disparities in both underwriting and pricing outcomes. Overall, the proposed changes make fair lending analyses more comprehensive and accurate. This is especially important for the prioritization and peer analysis or redlining reviews that regulatory agencies conduct for fair lending supervision and enforcement purposes because a consistent and clean dataset will be available for all financial institutions.

Second, the proposal will help determine whether financial institutions are serving the housing needs of their communities and help public officials target public investment to better attract private investment, two of HMDA's stated purposes. The proposed expansions of institutional and transactional coverage would provide additional data helpful to both industry and government in identifying profitable lending and investment opportunities in underserved communities. Similarly, the proposed data points related to multifamily dwellings and manufactured housing would reveal more information about these segments of the market. Borrowers who seek financing for manufactured housing are typically more financially vulnerable than borrowers financing site-built homes, and may deserve closer attention from government agencies and

community groups. Although financing involving multifamily dwellings reported under HMDA is typically offered to institutional borrowers, the ultimate constituents these loans serve are mostly low- to mid-income renters who live in these financed units. Advocacy groups and government agencies have raised concerns over affordability issues faced by individuals living in multifamily dwellings, who also tend to be more financially vulnerable than individuals living in single-family dwellings. Overall, by permitting a better and more comprehensive understanding of these markets, the proposal will improve the usefulness of HMDA data for assessing the supply and demand of credit, and financial institutions' treatment of applicants and borrowers, in these communities.

Third, the proposed changes would assist in earlier identification of trends in the mortgage market including the cyclical loosening and tightening of credit. Mandatory reporting of additional transactions, such as open-end lines of credit, home-equity loans, and reverse mortgages, as well as additional data fields, such as amortization type, prepayment penalty, and occupancy type, would improve understanding of the types of products and product characteristics received by consumers. Recent research has indicated that certain product types and characteristics may have increased the likelihood of default and exacerbated declines in housing prices during the recent financial crisis. In addition to being able to better identify some of the risk factors that played a role in the recent financial crisis, the additional transactions and data points would improve current research efforts to understand mortgage markets. This research may identify new risk factors that might increase systemic risk to the overall economy. Better understanding of these risk factors could provide early warning signals to the government of worrisome market trends.

Fourth, the proposed changes will improve the effectiveness of policy-making efforts. In response to the recent financial crisis, the government has generated a number of rules and implemented a wide array of public policy measures to address market failures and protect consumers. The additional data being proposed, as well as the proposed coverage and transaction changes, will allow for more informed decisions by policy makers and improve the consideration of benefits, costs, and impacts for future policy efforts, resulting in more effective policy.

Quantifying these benefits is difficult because the size of each particular effect cannot be known in advance. Given the number of mortgage transactions and the size of the mortgage market, however, small changes in behavior can have substantial aggregate effects. The Bureau seeks comments and suggestions on whether such effects can be reliably estimated and possible ways of doing so.

Major costs of the rule. The proposed rule will increase ongoing operational costs and impose one-time costs on financial institutions. Financial institutions conduct a variety of operational tasks to collect the necessary data points, prepare the data for submission, conduct compliance and audit checks, and prepare for HMDA-related exams. These operational costs are driven primarily by the time spent on each task and the wage of the relevant employee. The Bureau estimates that current annual operational costs of reporting under HMDA are approximately $2,200 for a representative low-complexity financial institution with a loan application register size of 50 records; $32,000 for a representative moderate-complexity financial institution with a loan application register size of 1,000 records; and $267,000 for a representative high-complexity financial institution with loan application register size of 50,000 records. This translates into an estimated per-application cost of approximately $45, $30, and $5 for representative low-, moderate- and high-complexity financial institutions, respectively. These operational cost estimates were shared with small entity representatives during the Small Business Review Panel meeting and their general accuracy was confirmed by most of the small entity representatives.[597] Using recent survey estimates of net income from the Mortgage Bankers Association [598] as a frame of reference for these ongoing, operational costs, the average net income per origination is approximately $2,900 for small/mid-size banks, $3,900 for medium banks, and $2,100 for large banks; and approximately $2,300 for small/mid-size independent mortgage companies, $3,000 for medium independent mortgage companies, and $1,900 for large independent mortgage companies.[599]

The proposed rule will affect the operational tasks associated with collecting and reporting HMDA data. More time will be required for tasks such as transcribing and checking data, and more resources will need to be devoted to tasks such as internal and external audits. The Bureau estimates that, absent the mitigation efforts discussed below, the addition to ongoing, operational costs borne by covered persons would be approximately $1,600 for a representative low-complexity financial institution; $10,300 for a representative moderate-complexity financial institution; and $27,000 for a representative high-complexity financial institution, per year. For the estimated 28 financial institutions that reported at least 75,000 transactions in the preceding year and would be required to report HMDA data quarterly, the addition to ongoing, operational costs would be approximately $54,000 per year. This would translate into a market-level impact of approximately $18,400,000 to $59,000,000 per year. Using a 7 percent discount rate, the net present value of this impact over five years across the entire market would be an increase in costs of $75,600,000 to $242,000,000.[600]

With operational improvements the Bureau is considering, the net cost increase from the proposal would be smaller than the above estimates. The Bureau's initial outreach efforts, as well as information gathered during the Small Business Review Panel process, indicated that reportability questions, regulatory clarity, geocoding, and submission processes and edits were significant concerns to financial institutions. Along with modifying the reporting requirements, the Bureau is separately considering operational enhancements and modifications to address these concerns. For example,

[597] During the Small Business Review Panel Meetings, most small entity representatives self-identified as tier 3 and tier 2 institutions. There were a few non-depository institutions with large mortgage loan volume that self-identify as tier 1 institutions.

[598] These estimates come from an annual survey conducted by the Mortgage Bankers Association and the STRATMORE group as part of the Peer Group Program and are available at *http://www.mba.org/ResearchandForecasts/Productsand Surveys/MBASTRATMORPeerGroupSurveyand Roundtables.htm.*

[599] The Bureau notes that these net income estimates were reported by the Mortgage Bankers Association and the STRATMORE group on per-origination basis. The Bureau estimates the HMDA operational cost per application, not per origination.

[600] The market-level estimates provide lower and upper bounds of the impact of the proposed rule on the market as a whole. To convey differences in impacts across the three representative tiers, we present institution-level estimates for each tier and do not aggregate up to market-level estimates for each tier. The institution-level estimates for each tier provide more useful and accurate estimates of differences in impacts across the three representative financial institutions, because they do not require the additional assumptions used to map HMDA reporters into tiers.

the Bureau is considering working to consolidate the outlets for assistance, providing guidance support similar to the guidance provided for Title XIV rules; improving points of contact processes for help inquiries; modifying the types of edits and when edits are approved; exploring opportunities to improve the current DES; and considering approaches to reduce geocoding burdens. All of these enhancements would improve the submission and processing of data, increase clarity, and reduce reporting burden. With the inclusion of these operational improvements, the net impact of the proposed rule on ongoing operational costs would be approximately $1,000, $2,100, and $12,600 per year, for representative low-, moderate-, and high-complexity financial institutions, respectively. For the estimated 28 financial institutions that reported at least 75,000 transactions in the preceding calendar year would be required to report HMDA data quarterly, the addition to ongoing operational costs would be approximately $31,300 per year. This would translate into a market-level net cost increase of $10,200,000 to $14,900,000 per year. Using a 7 percent discount rate, the net present value of this impact over five years would be a cost of $41,900,000 to $61,200,000.

In addition to impacting ongoing, operational costs, the proposed rule would impose one-time costs necessary to modify processes in response to the proposal. These one-time costs are driven primarily by updating software systems, training staff, updating compliance procedures and manuals, and overall planning and preparation time. The Bureau estimates that these one-time costs would be approximately $3,000 for low-complexity financial institutions, $250,000 for moderate-complexity financial institutions, and $800,000 for high-complexity financial institutions.

These estimates exclude the impact of expanding transactional coverage to include open-end lines of credit, home-equity loans, and reverse mortgages.[601] As discussed in more detail below, outreach efforts indicated that many financial institutions, especially larger and more complex institutions, process home-equity products in the consumer business line using separate procedures, policies, and data systems. As a result, there would be one-time costs to modify processes and systems for home-equity products and one-time costs to modify processes and systems for other mortgage products. The Bureau recognizes that the one-time cost from reporting dwelling-secured home-equity products could be substantial for many financial institutions but so far lacks the data necessary to accurately quantify it. For this discussion, the Bureau assumes that the one-time cost of integrating home-equity products into HMDA reporting processes would be roughly equal to 50 percent of the one-time costs absent mandatory reporting of such products. This estimate accounts for the fact that compliance with the reporting requirements for these lines of business would require some new systems, extra start-up training, and new compliance procedures and manuals, but that some fixed, one-time costs could be shared with lines of business currently subject to Regulation C because both have to undergo systemic changes. For high- and moderate-complexity financial institutions, the Bureau therefore estimates one-time costs to adapt to mandatory reporting of open-end lines of credit, home-equity loans, and reverse mortgages to be $400,000 and $125,000, respectively. For low-complexity financial institutions, the one-time cost associated with mandatory reporting of dwelling-secured home-equity products is relatively low because these institutions are less reliant on information technology systems for HMDA reporting, and home-equity products are often processed on the same system and in the same business unit as mortgage products. Therefore, for tier 3 financial institutions, the Bureau estimates that the additional one-time cost created by the proposed changes to transactional coverage is minimal and is derived mostly from new training and procedures adopted for the proposed changes.

The specific estimates of one-time costs are based on the Bureau's outreach efforts. Specifically, for low-complexity financial institutions, these outreach efforts indicated that the cost to update information technology systems would be minimal, because the processes involved in reporting are highly manual. The estimate of one-time training cost is based on estimated ongoing training costs of $300 per year for staff directly responsible for data reporting. In response to the proposed rule, additional staff will require one-time training, but the intensity of this training will be lower than ongoing training. To capture this additional, less-intensive training, the Bureau used five times the annual training cost as the estimated one-time training cost ($1,500). Training costs provide the best-available proxy for the one-time cost to update compliance procedures and manuals, so the Bureau used $1,500 as an estimate of these costs as well. Therefore, the total one-time cost estimate for lower-complexity financial institutions is approximately $3,000 (=0+1,500+1,500). This estimate varies little with or without the inclusion of mandatory reporting of dwelling-secured home-equity products.

For moderate-complexity financial institutions, outreach efforts indicated that representative costs to update information technology would be approximately $225,000. This estimate excludes the impact of expanding transactional coverage to include dwelling-secured home-equity products. The estimate of one-time training cost is based on the estimate of ongoing training costs of $2,500 per year. Again, the Bureau used five times the annual training cost as the estimated one-time training cost ($12,500). Training costs provide the best-available proxy for the one-time cost to update compliance procedures and manuals, so the Bureau used $12,500 as an estimate of these costs as well. The one-time cost estimate for a representative moderate-complexity financial institution is therefore approximately $250,000 (=225,000+12,500+12,500), excluding the costs of mandatory reporting of dwelling-secured home-equity products. By including the 50 percent multiplier discussed above, the Bureau assumes that the one-time cost of mandatory reporting of dwelling-secured home-equity products is $125,000. Therefore, for a representative moderate-complexity financial institution, the one-time cost estimate including mandatory reporting of dwelling-secured home-equity products is $375,000.

For high-complexity financial institutions, outreach efforts indicated that representative costs to update information technology would be approximately $500,000. This estimate excludes the impact of expanding transactional coverage to include dwelling-secured home-equity products. The estimate of one-time training costs is based on the estimate of ongoing training costs of $30,000 per year. Again, the Bureau used five times the annual training cost as the estimated one-time training cost ($150,000). Training costs provide the best available proxy for the one-time cost to update compliance procedures and manuals, so the Bureau used $150,000 as an estimate

[601] The Bureau realizes that the impact to one-time costs varies by institution due to many factors, such as size, operational structure, and product complexity, and that this variance exists on a continuum that is impossible to fully capture. As a result, the one-time cost estimates will be high for some financial institutions, and low for others.

of these costs as well. The one-time cost estimate for a representative high-complexity financial institution is therefore approximately $800,000 (=500,000+150,000+150,000). By including the 50 percent multiplier discussed above, the Bureau assumes that the one-time cost of mandatory reporting of dwelling-secured home-equity products is $400,000. Therefore, for a representative high-complexity financial institution, the one-time cost estimate including mandatory reporting of dwelling-secured home-equity products is $1,200,000.

The Bureau estimates an overall market impact on one-time costs of between $383,000,000 and $2,100,000,000. As a frame of reference for all of these market-level, one-time cost estimates, the total non-interest expenses for current HMDA reporters were approximately $420 billion in 2012. The upper-bound estimate of $2.1 billion is approximately 0.5 percent of the total annual non-interest expenses.[602] Because these costs are one-time investments, financial institutions are expected to amortize these costs over a period of years. In this analysis the Bureau amortizes all costs over five years, using a simple straight-line amortization. Using a 7 percent discount rate and a five-year window, the annualized additional one-time cost is $93,400,000 to $514,900,000.

The Bureau has taken a conservative approach to estimating the one-time costs because of the uncertainty regarding how many financial institutions belong to each of the three representative tiers. Thus the Bureau has mapped out all possible distributions to arrive at the lower bound and higher bound cost estimates, as explained in part VI.F.2, below. The Bureau hopes to obtain more information on the distribution of financial institutions across the three tiers and to refine its estimate of these one-time costs through feedback received during the rulemaking process. In particular, the Bureau seeks additional information on the number of HMDA reporters that are moderate complexity, tier 2 institutions.

2. Methodology for Generating Cost Estimates

In connection with the development of the proposed rule, the Bureau reviewed the current HMDA compliance systems and activities of financial institutions. The review used a cost-accounting, case-study methodology consisting, in part, of interviews with 20 financial institutions of various sizes, nine vendors, and 15 governmental agency representatives.[603] These interviews provided the Bureau with detailed information about current HMDA compliance processes and costs.[604] This information showed how financial institutions gather and report HMDA data and provided the foundation for the approach the Bureau took to consider the benefits, costs and impacts of the proposed rule. The Bureau augmented this information through the Small Business Review Panel process, and through relevant academic literature, publicly available information and data sources available through the Internet,[605] historical HMDA data, Call Report Data, NMLSR Data, and the Bureau's expertise.

Based on the outreach described above, the Bureau classified the operational activities that financial institutions currently use for HMDA data collection and reporting into discrete compliance ''tasks.'' This classification consists of 18 ''component tasks,'' which can be grouped into four ''primary tasks.'' The level of detail of the classification is intended to facilitate estimation of baseline costs and to enable rigorous analysis of the impact of the proposals across a wide range of financial institutions. The four primary tasks are described briefly below.

1. Data collection: Transcribing data, resolving reportability questions, and transferring data to HMDA Management System (HMS).

2. Reporting and resubmission: Geocoding, standard annual edit and internal checks, researching questions, resolving question responses, checking post-submission edits, filing post-submission documents, creating public loan application register, distributing public loan application register, distributing disclosure report, and using vendor HMS software.

3. Compliance and internal audits: Training, internal audits, and external audits.

4. HMDA-related exams: Exam preparation and exam assistance.

In addition to collecting information about operational activities and costs, the Bureau also used outreach efforts and the Small Business Review Panel process to better understand the potential one-time costs that HMDA reporters will incur in response to the proposed rule. Management, legal, and compliance personnel will likely require time to learn new reporting requirements and assess legal and compliance risks. Financial institutions that use vendors for HMDA compliance will incur one-time costs associated with software installation, troubleshooting, and testing. The Bureau is aware that these activities will take time and that the costs may vary depending on the time available. Financial institutions that maintain their own reporting systems will incur one-time costs to develop, prepare, and implement necessary modifications to those systems. In all cases, financial institutions will need to update training materials to reflect new requirements and activities and may have certain one-time costs for providing initial training to current employees.

The Bureau recognizes that the cost per loan of complying with the current requirements of HMDA, as well as the operational and one-time impact of the proposed rule will differ by financial institution. During the Bureau's outreach with financial institutions, the Bureau identified seven key dimensions of compliance operations that were significant drivers of compliance costs. These seven dimensions are: The reporting system used; the degree of system integration; the degree of system automation; the compliance program; and the tools for geocoding, performing completeness checks, and editing. The Bureau found that financial institutions tended to have similar levels of complexity in compliance operations

[602] The Bureau estimated the total non-interest expense for banks, thrifts and credit unions that reported under HMDA based on Call Report and NCUA Call Report data for depository institutions and credit unions, and NMLS data for non-depository insitutions, all matched with 2012 HMDA reporters.

[603] For a discussion of this methodology in the analysis of the costs of regulatory compliance, see Gregory Elliehausen, *The Cost of Bank Regulation: A Review of the Evidence,* Bd. of Governors of the Fed. Reserve Sys. Working Paper Series 171 (1998). In addition, the Bureau recently conducted a Compliance Cost Study as an independent analysis of the costs of regulatory compliance. *See* U.S. Consumer Fin. Prot. Bureau, *Understanding the Effects of Certain Deposit Regulations on Financial Institution's Operations: Findings on Relative Costs for Systems, Personnel, and Processes at Seven Institutions,* (2013), *available at http://files.consumerfinance.gov/f/201311_cfpb_report_findings-relative-costs.pdf.*

[604] The financial institutions interviewed were selected to provide variation in key characteristics like institution type (bank, credit union, independent mortgage bank), regulator, record count, submission mechanism, number of resubmissions, and other designations like multifamily lender or rural. However the Bureau recognizes that this does not constitute a random survey of financial intuitions and the sample size might not be large enough to capture all variations among financial institutions. Therefore the Bureau interprets the findings cautiously.

[605] Internet resources included, among others, sites such as Jstor.org, which provides information on published research articles; FFIEC.gov, which provides information about HMDA, CRA, and the financial industry in general; university Web sites, which provide information on current research related to mortgages, HMDA and the financial industry; community group Web sites, which provide the perspective of community groups; and trade group Web sites which provide the perspective of industry.

across all seven dimensions. For example, if a given financial institution had less system integration, then it would also tend to use less automation and less-complex tools for geocoding. It was generally not the case that a financial institution would use less complex approaches on one dimension and more complex approaches on another. The small entity representatives validated this perspective during the Small Business Review Panel meeting.

To capture the relationships between operational complexity and compliance cost, the Bureau used these seven dimensions to define three broadly representative lenders according to the overall level of complexity of their compliance operations. Tier 1 denotes a representative financial institution with the highest level of complexity, tier 2 denotes a representative financial institution with a moderate level of complexity, and tier 3 denotes a representative financial institution with the lowest level of complexity. For each tier, the Bureau developed a separate set of assumptions and cost estimates. All of these assumptions and cost estimates apply at the institutional level.[606] In the Outline of Proposals prepared for the Small Business Review Panel, the Bureau provided a detailed exposition of the analytical approach used for the three tiers.[607]

Table 1 below provides an overview of all three representative tiers across the seven dimensions of compliance operations:

Table 1: Types of HMDA Reporters[1]

	Tier 3 FIs tend to…	Tier 2 FIs tend to…	Tier 1 FIs tend to…
Systems	Store data in EXCEL and use DES	Use LOS and HMS	Use multiple LOS, central SoR, HMS, DES
Integration	(None)	Have forward integration (LOS to HMS)	Have backward and forward integration
Automation	Type data into DES	Use manual edit checks	Have high automation (only verifying edits manually)
Geocoding	Use FFIEC tool (manual)	Use batch processing	Use batch processing with multiple sources
Completeness checks	Check in DES only	Use LOS, which includes completeness checks	Use multiple stages of checks
Edits	Use FFIEC edits only	Use FFIEC and customized edits	Use FFIEC and customized edits run multiple times
Compliance program	Have a joint compliance and audit office	Have basic internal and external accuracy audit	Have in-depth accuracy and fair lending audit

[1] FI is "financial institution"; DES is "Data Entry Software"; LOS is "Loan Origination System"; HMS is "HMDA Management Software"; SoR is "System of Record."

Tables 2–4 convey the baseline estimates of annual ongoing operational costs as well as the underlying formulas used to calculate these estimates for the 18 operational tasks for the three representative financial institutions. The wage rate is $28 per hour, which is the national average wage for compliance officers based on most recent National Compensation Survey from the Bureau of Labor Statistics. The number of applications for tier 3, tier 2, and tier 1 financial institutions is 50, 1,000, and 50,000, respectively. The Bureau used similar breakdowns of the 18 operational tasks for each representative financial institution to estimate the impact of the proposal on ongoing operational costs. The Bureau notes that with the assumed wage rate, number of applications, and other key

[606] The Bureau assumes that the tier 1 representative financial institution has 50,000 records, the tier 2 representative has 1,000 records, and the tier 3 representative financial institution has 50 records on the HMDA loan application register. All cost estimates reflect the assumptions defining the three representative financial institutions, and reflect general characteristics and patterns, including man-hours spent on each of the 18 component tasks and salaries of the personnel involved. To the extent that an individual financial institution specializes in a given product, or reports different numbers of records on its loan application register, these representative estimates will differ from the actual cost of that particular financial institution.

[607] *See* U.S. Consumer Fin. Prot. Bureau, *Small Business Review Panel for Home Mortgage Disclosure Act Rulemaking: Outline of Proposals Under Consideration and Alternative Considered* (Feb. 7, 2014) (Outline of Proposals), *available at http://files.consumerfinance.gov/f/201402_cfpb_hmda_outline-of-proposals.pdf.*

assumptions provided in the notes following each table, it is possible for readers of this discussion to back out all elements in the formulas provided below using the baseline estimates for each task in each tier.

Table 2: Baseline Cost Estimates for 18 Operational Tasks for Tier 3 Financial Institutions[1]

Primary Task	Component Tasks	Baseline Compliance Costs at a Tier 3 FI	Fixed or Variable Cost	Baseline Estimate
Data Collection	Transcribing data	(hourly wage) x (hours spent transcribing data per application) x (number of applications)[2]	Variable	$230
	Resolving reportability questions	(hourly wage) x (hours spent resolving reportability questions per application) x (number of applications with reportability questions)	Variable	$138
	Transfer data to HMS	(hourly wage) x (hours spent transferring data to HMS per application) x (number of applications)	Variable	$230
Reporting and Resubmission	Complete geocoding data	(hourly wage) x (hours spent geocoding per application) x (number of applications)	Variable	$100
	Standard annual edit and internal check	(hourly wage) x (hours spent on edits and checks)	Fixed	$442
	Researching questions	(hourly wage) x (hours spent researching questions per application) x (number of applications with questions)[3]	Variable	$69
	Resolving question responses	(hourly wage) x (hours resolving question responses per application) x (number of applications with contrary answers to questions)[4]	Variable	$28
	Checking post-submission edits	(hourly wage) x (hours spent checking post-submission edits per application)	Variable	$28
	Filing post-submission documents	(hourly wage) x (hours spent filing post-submission documents)	Fixed	$7
	Creating public LAR	(hourly wage) x (hours spent creating public LAR)	Fixed	$111
	Distributing public LAR	(hourly wage) x (hours spent distributing public LAR) x (number of public LAR requests)[5]	Fixed	$0
	Distributing disclosure report	(hourly wage) x (hours spent distributing disclosure report) x (number of disclosure report requests)[6]	Fixed	$0
	FI uses vendor HMS Software	Interviews indicated Tier 3 FIs use free DES instead of vendor HMS	Fixed	$0
Audits	Training	(hourly wage) x (number of loan officers and processors)[7] x (hours of training received by each)	Fixed	$276
	Internal audit	Interviews indicated Tier 3 FIs have no internal audit department	Fixed	$0
	External audit	Cost based on representative average of information	Fixed	$500
Exams	Exam prep	(hourly wage) x (hours spent preparing for exam)	Fixed	$7
	Exam assistance	(hourly wage) x (hours spent assisting during exams)	Fixed	$55

Note: Key Assumptions in the Table

1. Hourly wage = $28, number of applications = 50
2. Number of applications with reportability questions = 5
3. Number of applications with questions = 5
4. Number of applications with contrary answers to questions = 1
5. Number of public LAR requests = 0
6. Number of disclosure report requests = 0
7. Number of loan officers and processors = 5

Table 3: Baseline Cost Estimates for 18 Operational Tasks for Tier 2 Financial Institutions[1]

Primary Task	Component Tasks	Baseline Compliance Costs at a Tier 2 FI	Fixed or Variable Cost	Baseline Estimate
Data Collection	Transcribing data	(hourly wage) x (hours spent transcribing data per application) x (number of applications)	Variable	$2,303
	Resolving reportability questions	(hourly wage) x (hours spent resolving reportability questions per application) x (number of applications with reportability questions)[2]	Variable	$1,382
	Transfer data to HMS	Tier 2 Financial institutions use an automated transfer of data into the HMS	Variable	$0
Reporting and Resubmission	Complete geocoding data	(hourly wage) x (hours spent geocoding per application) x (number of applications)	Variable	$691
	Standard annual edit and internal check	(hourly wage) x (hours spent on edits and checks)	Fixed	$8,621
	Researching questions	(hourly wage) x (hours spent researching questions per application) x (number of applications with questions)[3]	Variable	$691
	Resolving question responses	(hourly wage) x (hours resolving question responses per application) x (number of applications with contrary answers to questions)[4]	Variable	$28
	Checking post-submission edits	(hourly wage) x (hours spent checking post-submission edits per application)	Variable	$111
	Filing post-submission documents	(hourly wage) x (hours spent filing post-submission documents)	Fixed	$7
	Creating public LAR	(hourly wage) x (hours spent creating public LAR)	Fixed	$221
	Distributing public LAR	(hourly wage) x (hours spent distributing public LAR) x (number of public LAR requests)[5]	Fixed	$41
	Distributing disclosure report	(hourly wage) x (hours spent distributing disclosure report) x (number of disclosure report requests)[6]	Fixed	$41
	FI uses vendor HMS Software	Estimated annual vendor HMS cost	Fixed	$8,000
Audits	Training	(hourly wage) x (number of loan officers and processors)[7] x (hours of training received by each)	Fixed	$2,210
	Internal audit	(hourly wage) x (hours spent on HMDA portion of audit	Fixed	$221
	External audit	Cost based on representative average of information	Fixed	$5,000
Exams	Exam prep	(hourly wage) x (hours spent preparing for exam)	Fixed	$2,210
	Exam assistance	(hourly wage) x (hours spent assisting during exams)	Fixed	$332

Note: Key Assumptions in the Table

1. Hourly wage = $28, number of applications = 1,000
2. Number of applications with reportability questions = 50
3. Number of applications with questions = 50
4. Number of applications with contrary answers to questions = 1
5. Number of public LAR requests = 3
6. Number of disclosure report requests = 3
7. Number of loan officers and processors = 20

Table 4: Baseline Cost Estimates for 18 Operational Tasks for Tier 1 Financial Institutions[1]

Primary Task	Component Tasks	Baseline Compliance Costs at a Tier 1 FI	Fixed or Variable Cost	Baseline Estimate
Data Collection	Transcribing data	(hourly wage) x (hours spent transcribing data per application) x (number of applications)	Variable	$115,125
	Resolving reportability questions	(hourly wage) x (hours spent resolving reportability questions per application) x (number of applications with reportability questions)[2]	Variable	$6,908
	Transfer data to HMS	Tier 1 Financial institutions use an automated transfer of data into the HMS	Variable	$0
Reporting and Resubmission	Complete geocoding data	(hourly wage) x (hours spent geocoding per application) x (number of applications)	Variable	$2,500
	Standard annual edit and internal check	(hourly wage) x (hours spent on edits and checks)	Fixed	$17,904
	Researching questions	(hourly wage) x (hours spent researching questions per application) x (number of applications with questions)[3]	Variable	$3,454
	Resolving question responses	(hourly wage) x (hours resolving question responses per application) x (number of applications with contrary answers to questions)[4]	Variable	$28
	Checking post-submission edits	(hourly wage) x (hours spent checking post-submission edits per application)	Variable	$442
	Filing post-submission documents	(hourly wage) x (hours spent filing post-submission documents)	Fixed	$7
	Creating public LAR	(hourly wage) x (hours spent creating public LAR)	Fixed	$442
	Distributing public LAR	(hourly wage) x (hours spent distributing public LAR) x (number of public LAR requests)[5]	Fixed	$207
	Distributing disclosure report	(hourly wage) x (hours spent distributing disclosure report) x (number of disclosure report requests)[6]	Fixed	$207
	FI uses vendor HMS Software	Interviews indicated Tier 3 FIs use free DES instead of vendor HMS	Fixed	$13,000
Audits	Training	(hourly wage) x (number of loan officers and processors)[7] x (hours of training received by each)	Fixed	$27,630
	Internal audit	(hourly wage) x (hours spent per year on audit)	Fixed	$63,660
	External audit	Interviews indicated Tier 1 FIs have no external audit of HMDA data	Fixed	$0
Exams	Exam prep	(hourly wage) x (hours spent preparing for exam)	Fixed	$13,262
	Exam assistance	(hourly wage) x (hours spent assisting during exams)	Fixed	$2,210

Note: Key Assumptions in the Table

1. Hourly wage = $28, number of applications = 50,000
2. Number of applications with reportability questions = 250
3. Number of applications with questions = 250
4. Number of applications with contrary answers to questions = 1
5. Number of public LAR requests = 15
6. Number of disclosure report requests = 15
7. Number of loan officers and processors = 250

To generate cost estimates at the market level, the Bureau developed an approach to map all HMDA reporters to one of three tiers. Because financial institutions are arrayed along a continuum of compliance cost that cannot be precisely mapped to three representative tiers, the Bureau has adopted a conservative strategy in providing a possible range of the number of financial institutions in each tier. To identify these distributions, the

Bureau used the total number of reporters (7,421) and the total number of loan application register records (18,723,000) in the 2012 HMDA data.

As a first step, the Bureau identified all possible tier distributions that were consistent with these two reporter and record counts, using the same loan application register sizes adopted in the institutional-level analysis (50,000 for tier 1 institutions; 1,000 for tier 2 institutions; and 50 for tier 3 institutions). Specifically the Bureau set the following two constraints: (1) The total number of HMDA reporters in all three tiers must sum to 7,421; and (2) using the assumed loan application register size in each tier, the total number of loan application register records by all reporters in all three tiers must sum to 18,723,000. For this step, the Bureau imposed an additional constraint by classifying all 217 HMDA reporters with over 10,000 records as tier 1, because the Bureau's investigation led it to believe that these large financial institutions all possess a high level of complexity in HMDA reporting. This assumption helped to narrow the range of possible combinations. The Bureau also substituted the actual loan application register size of these 217 largest HMDA reporters into this constraint for the loan application register size of a tier 1 financial institution, further narrowing the range of possible combinations. The Bureau notes that all distributions identified are mathematically possible based on the Bureau's assumptions.

Second, for the subset of tier distributions satisfying these reporter and count constraints, the Bureau then estimated market-level costs based on the tier-specific assumptions and cost estimates. That is, for a given distribution derived in the first step, the Bureau multiplied the institutional-level cost estimate for each tier by the number of institutions in that tier, and then summed across all three tiers. The distributions with the lowest- and highest-estimated market-level costs provided the lower and upper bounds for the market-level estimates throughout the consideration of the benefits and costs. Specifically, the Bureau arrived at two distributions for all HMDA reporters: (1) The first distribution has 4 percent of financial institutions in tier 1, 0 percent of financial institutions in tier 2, and 96 percent of financial institutions in tier 3; and (2) the second distribution has 3 percent of financial institutions in tier 1, 66 percent of financial institutions in tier 2, and 31 percent of financial institutions in tier 3. The Bureau notes that these two distributions likely do not match the state of the world exactly. Nevertheless, for the set of assumptions described above, these distributions provide upper and lower bounds for the market-level estimates. The Bureau recognizes that this range estimate does not permit perfect precision in estimating the impact of the proposed rule and will refine the range estimate for the final rule to the extent that public comments supplement the Bureau's knowledge. The Bureau solicits comments and data that might assist in producing more precise estimates.

Initial outreach efforts, as well as information gathered during the Small Business Review Panel process, indicated that compliance costs for financial institutions were impacted by the complexity of the data field specifications and the process of submitting and editing HMDA data. As part of the proposed rule, the Bureau is considering enhancements to the sources of help and the processing procedures. For example, the Bureau is considering working to consolidate the outlets for assistance, providing guidance support similar to the guidance provided for title XIV rules; and improving points of contact processes for help inquiries. In addition, the Bureau is separately considering possible modifications to data submission tools to include loan-type specific edits and pre-approved edits. All of these enhancements would clarify the data field specifications and reduce burden. The consideration of benefits and costs discusses how these enhancements might affect the impact of the proposed rule.

3. The Scope of the Institutional Coverage of the Proposed Rule

The proposed rule would revise the threshold that determines which financial institutions are required to report data under HMDA. Specifically, depository and nondepository institutions that meet all the other criteria for a ''financial institution'' in proposed § 1003.2(g) would only be required to report HMDA data if they originated at least 25 covered loans, excluding open-end lines of credit, in the previous calendar year. The Bureau is proposing to no longer exempt nondepository institutions pursuant to its discretionary authority under HMDA section 309(a).

Based on data for 2012 from Call Reports, HMDA, and the NMLSR, the Bureau estimates that these proposed changes would reduce the number of reporting depository institutions by approximately 1,600 and increase the number of reporting nondepository institutions by approximately 450.[608] The exclusion of depository institutions would reduce loan application register records by approximately 70,000 and the inclusion of additional nondepository institutions would add approximately 30,000 records. Expansions or contractions of the number of financial institutions, or changes in product offerings between now and implementation of the proposed rule may alter these estimated impacts.

Benefits to consumers. The proposed institutional coverage threshold would have several benefits to consumers. Traditionally, nondepository institutions have been subject to less scrutiny by regulators than depository institutions and little is known about the mortgage lending behavior of nondepository institutions that fall below the current reporting thresholds. By illuminating this part of the mortgage market, the proposed rule would provide regulators, public officials, and members of the public with important information. For example, it is possible that small nondepository institutions are serving particular market segments or populations that would benefit from more oversight by public officials and community groups. This oversight can be enhanced only if more information is revealed about the segments, and the proposed change in institutional coverage is designed to fill this vacuum. To the extent that such increased monitoring and transparency enhances social welfare, consumers served by these nondepository institutions would benefit.

Similarly, expanding coverage among nondepository institutions could improve the processes used to identify possible discriminatory lending patterns and enforce antidiscrimination statutes. Financial regulators and enforcement agencies use HMDA data in their initial prioritization and screening processes to select institutions for examination. HMDA data also provide information that is used in fair lending reviews of mortgage lenders for potential violations

[608] Estimates of the number of depository institutions that would no longer be required to report under HMDA, as well as the reduction in loan application register volume can be obtained directly from current HMDA data, and are therefore relatively reliable. The number of nondepository institutions that would be required to start reporting based on the proposed rule is more difficult to estimate, because it requires data and information from an alternative source as these nondepository institutions are not currently HMDA reporters. There are various data quality issues related to the alternative data sources on nondepository institutions. As such, the estimates for non-depository institutions are less reliable, and should be viewed as the best effort estimates given the data limitations.

of ECOA and the Fair Housing Act. This is especially true for redlining analyses, which compare lending patterns across lenders within given markets. Current deficiencies in HMDA's institutional coverage leave gaps in the data used by regulators for conducting fair lending prioritization and redlining analyses to compare lenders or markets. Because many depository and nondepository institutions with similar loan volumes are similar in other respects, excluding some nondepository institutions with fewer than 100 loans may weaken the understanding of markets needed for prioritization and redlining analyses. Consequently, increased reporting among nondepository institutions may increase the ability to identify fair lending risk.

Finally, the proposed rule will also improve the ability to determine whether financial institutions are serving the housing needs of their communities. Information from data sources such as the United States Census, Call Reports, and the NMLSR can be used to characterize the housing needs of the communities each lender serves. HMDA data provide a supply-side picture of how well each lender is meeting these housing needs. Indeed, HMDA data may be analogized to a census of mortgage demand and supply for covered financial institutions. However, such data currently paints only a partial picture of the market served by financial institutions with 25 to 99 loans. The addition of nondepository institutions with between 25 and 99 originations will provide an improved understanding of the mortgage markets where these financial institutions operate, thereby enhancing efforts to assess whether these institutions, and financial institutions overall, are serving the housing needs of their communities.

Costs to consumers. The revised threshold will not impose any direct costs on consumers. Consumers may bear some indirect costs if nondepository institutions that would be required to report under the proposed rule pass on some or all of their costs to consumers. Following microeconomic principles, the Bureau believes that these nondepository institutions will pass on increased variable costs to future mortgage applicants, but absorb start-up costs, one-time costs, and increased fixed costs if financial institutions are profit maximizers and the market is perfectly competitive.[609]

The Bureau defines variable costs as costs that depend on the number of applications received. Based on initial outreach efforts, the following five operational steps affect variable costs: Transcribing data, resolving reportability questions, transferring data to an HMS, geocoding, and researching questions. The primary impact of the proposed rule on these operational steps is an increase in time spent per task. Overall, the Bureau estimates that the impact of the proposed rule on variable costs per application is approximately $13 for a representative tier 3 financial institution, $0.20 for a representative tier 2 financial institution, and $0.11 for a representative tier 1 financial institution.[610] The 450 nondepository institutions that would now be required to report have small origination volumes, so the Bureau expects most of them to be tier 3 financial institutions. Hence, based on microeconomics principles, the Bureau expects the costs that a representative financial institution affected by this proposal would pass on to mortgage applicants would be $13 per application. This expense will be amortized over the life of the loan and represents a negligible increase in the cost of a mortgage loan. Therefore, the Bureau does not anticipate any material adverse effect on credit access in the long or short term even if the additional reporting nondepository institutions pass on these costs to consumers.

During the Small Business Review Panel process, some small entity representatives noted that they would attempt to pass on all increased compliance costs associated with the proposed rule, but that whether these costs were passed on would depend on the competiveness of the market in which they operate, especially for smaller financial institutions. In addition, some small entity representatives noted that they would attempt to pass on costs through higher fees on other products, would leave geographic or product markets, or would spend less time on customer service. To the extent that the market is less than perfectly competitive and financial institutions are able to pass on a greater amount of these compliance costs, the cost to consumers would be slightly larger than the estimates described above. Even so the Bureau believes that the potential costs that would be passed on to consumers are small.

The proposed rule may impose additional costs on consumers. Reducing the number of depository institutions required to report will reduce HMDA's overall coverage of the mortgage market. This reduction would reduce the usefulness of HMDA data for assessing whether lenders are meeting the housing needs of their communities and highlighting opportunities for public and private investment. This reduction may also affect the usefulness of HMDA for identifying possible discriminatory lending patterns—especially for redlining analyses, which focus on market-level data and data on competitors. To better understand these potential costs, the Bureau analyzed the characteristics of the depository institutions that would be excluded by the 25-loan threshold, and compared these characteristics to depository institutions that currently report and would not be excluded. This type of analysis is possible because the proposed rule reduces both the number of depository institutions and the transactions they report, and the total universe reported under the current regulation is known. For this exercise, the Bureau also excluded purchased loans from its comparisons.

The Bureau analyzed the distribution of various HMDA data fields for depository institutions that would be newly excluded and included under the proposal. Overall, the Bureau found that, relative to depository institutions that would continue to report under the proposal, applications for covered loans at excluded depository institutions were more likely to be (1) made to the depository institutions supervised by the FDIC or NCUA; (2) unsecured or second-lien; (3) home improvement; (4) non-owner-occupied; (5) manufactured housing or multi-family; (6) portfolio loans; (7) higher-priced; and (8) lower-loan amount. Specifically, over 36 percent and 44 percent of applications that would be excluded were submitted to depository institutions regulated by the FDIC and NCUA, respectively. In contrast, for applications at depository institutions that would continue to report under the proposal, 13.74 percent

[609] If markets are not perfectly competitive or financial institutions are not profit maximizers then what financial institutions pass on may differ. For example, they may attempt to pass on one-time costs and increases in fixed costs, or they may not be able to pass on variable costs.

[610] These cost estimates do not incorporate the impact of adding operational changes affecting geocoding, DES processing, and help sources. Incorporating these additional operational changes would reduce the estimated impact on variable costs. Therefore, the estimates we provided are upper bound estimates of the increase in variable costs that financial institutions would pass on to consumers. These estimates of the impact of the proposed rule on variable cost per application show the impact of all components of the proposed rule, and therefore differ from estimates of the impact on variable cost presented below, which show the impact of specific components of the proposed rule. In addition, these estimates focus only on the variable cost tasks, while other estimates incorporate both variable and fixed cost tasks.

and 10.15 percent were submitted to depository institutions supervised by the FDIC and NCUA, respectively. Over 16 percent and 12 percent of applications at depository institutions that would be excluded were second-lien or unsecured, respectively, compared to 2.92 percent and 2.75 percent of applications at depository institutions not excluded. Over 31 percent of applications at depository institutions that would be excluded were for home improvement products, compared to 6.78 percent of applications at depository institutions not excluded. Over 19 percent of applications at depository institutions that would be excluded were non-owner-occupied, compared to 11.86 percent of applications at depository institutions not excluded. Slightly fewer than 4 percent of applications at depository institutions that would be excluded were manufactured housing and just under 4 percent were multi-family, compared to 1.83 percent and 0.42 percent of applications at depository institutions not excluded, respectively. Slightly fewer than 13 percent of originations at depository institutions that would be excluded were sold in the secondary market, compared to 67.26 percent of originations at depository institutions not excluded. Nearly 9 percent of originations at depository institutions that would be excluded exceeded HMDA's current rate spread threshold, compared to 1.88 percent of originations at depository institutions not excluded. Finally, the average loan amount for applications at depository institutions that would be excluded was $184,000, compared to $205,333 for applications at depository institutions not excluded.

Excluding small-volume depository institutions currently reporting under HMDA also impacts the volume of records available for analysis at the market level. The geographic data fields currently in the HMDA data provide four possible market levels: State, MSA, county, and census tract. Overall, analysis [611] of these markets shows that for most markets, a small percentage of loan application register records would be lost by excluding small-volume depository institutions. For all but five states, less than 1 percent of loan application register records reported under 2012 HMDA would be excluded. The percentage excluded is greater than 1 percent for Colorado, Texas, Nevada, Alaska and Puerto Rico. Alaska and Puerto Rico had the highest percentage of excluded records at 3.31 percent and 9.27 percent, respectively. Ranked by the percentage of loan application register records that would be excluded for each MSA, the 75th percentile was 0.72 percent, suggesting that for 75 percent of MSAs, excluding small depository institutions would exclude less than 0.72 percent of total loan application register records. The 95th percentile was 1.99 percent, suggesting that for 5 percent of MSAs, excluding small depository institutions would exclude more than 1.99 percent of total loan application register records. The top five MSAs were all in Puerto Rico. Counties and census tracts have smaller volumes, so the variation in percentages is naturally expected to be higher. Ranked by the percentage of loan application register records that would be excluded, the 75th and 95th percentiles for counties were 0.61 percent and 4.55 percent, respectively. The 75th and 95th percentiles for census tracts were 0.66 percent and 3.23 percent, respectively

Benefits to covered persons. The proposal would provide some cost savings to depository institutions that would be excluded under the 25-loan threshold. The estimated 1,600 depository institutions that would be excluded under the proposed threshold would no longer incur current operational costs associated with gathering and reporting data. The Bureau expects most of these depository institutions to be tier 3 financial institutions, given the small volume of home purchase, refinance and reverse mortgage originations for them. The Bureau estimates that the current annual, operational costs of reporting under HMDA are approximately $2,200 for representative tier 3 financial institutions with a loan application register sizes of 50 records. This translates into a market-level benefit of approximately $3,500,000 (=2,200*1,600) per year. Using a 7 percent discount rate, the net present value of this impact savings over five years is $14,400,000.[612]

In addition to avoiding ongoing costs, the 1,600 excluded depository institutions would not incur the one-time costs necessary to modify processes in response to the proposed rule. The Bureau estimates these one-time costs to be, on average, $3,000 for tier 3 financial institutions. Assuming that all 1,600 depository institutions are tier 3 institutions, this yields an overall market savings of $4,800,000. Using a 7 percent discount rate and a five-year amortization window, the annualized one-time savings is $1,200,000.

One-time costs to covered persons. The estimated additional 450 nondepository institutions that would have to report under the proposal would incur start-up costs to develop policies and procedures, infrastructure, and training. Given the small origination volume by these nondepository institutions, the Bureau expects most of them to be tier 3 financial institutions. Based on outreach discussions with financial institutions, the Bureau believes that these start-up costs would be approximately $25,000 for tier 3 financial institutions. This yields an overall market cost of $11,300,000. Using a 7 percent discount rate and a five-year amortization window, the annualized one-time cost is $2,700,000. The Bureau hopes to learn more about the costs of initiating HMDA reporting through comment letters.

Ongoing costs to covered persons. The estimated 450 nondepository institutions that would have to report under the proposal would incur the operational costs of gathering and reporting data. Including both current operational costs and the impact of the proposed rule, the Bureau estimates that these operational costs will total approximately $3,200 for a representative tier 3 financial institution per year. This yields an overall market impact of $1,400,000. Using a 7 percent discount rate, the net present value of this cost over five years is $5,900,000. These estimates incorporate all of the operational improvements that the Bureau is considering.

4. The Scope of the Transactional Coverage of the Proposed Rule

The proposed rule requires financial institutions to report activity only for dwelling-secured loans, regardless of whether the loans are for home purchase, home improvement, or refinancing. As a result, home improvement loans not secured by a dwelling would be removed from the reporting requirements, while home-equity loans and reverse mortgages would be included regardless of purpose. Importantly, institutions would be required to report data on all open-end line of credit. In addition, for preapproval requests that are approved, but not accepted, reporting would change from optional to mandatory.

[611] This analysis includes purchased loans.

[612] Note that the figures above refer to cost savings by the newly-excluded small depository institutions, assuming costs based on the current Regulation C reporting system. With the proposed changes, along with the operational improvements that the Bureau is separately considering, the impact of the proposed rule on operational costs would be approximately $1,000 per year for a representative tier 3 financial institution. This translates into a market-level savings of approximately $1,600,000 (=1,000*1,600) per year. Using a 7 percent discount rate, the net present value of this savings over five years is $6,600,000.

Benefits to consumers. The proposed revisions to Regulation C's transactional coverage would have several benefits to consumers. The Bureau believes that data on open-end lines of credit, home-equity loans, reverse mortgages, and preapproval requests that were approved, but not accepted will provide a much more complete picture of the dwelling-secured lending market.

Using home-equity lines of credit and home-equity loans as an example, in the lead up to the financial crisis between 2000 and 2008, the balance of home-equity lending increased by approximately 16.8 percent annually, moving from $275.5 billion to $953.5 billion in total.[613] Various researchers have pointed out that rapidly expanding lending activities in home-equity lines of credit and home-equity loans contributed to the housing bubble as borrowers and lenders both vigorously took on high leverage. Additional research has shown that the growth in home-equity lending was correlated with subsequent home price depreciation, as well as high default and foreclosure rates among first mortgages.[614] Researchers have argued that these correlations were driven in part by consumers using home-equity lines of credit to fund investment properties, which impacted default rates when housing prices began to fall. Researchers have also shown evidence that distressed homeowners with closed-end subordinate-lien mortgage loans encountered several challenges when seeking assistance from public and private mortgage relief programs.[615] Data on these loans might have helped public officials improve the effectiveness of these relief programs. However, because HMDA does not currently cover all home-equity loans, and most financial institutions choose not to report home-equity lines of credit, this substantial market is almost completely missing from the HMDA data. Based on information from HUD and Moody's Analytics (May 2013), HMDA data currently include approximately 1 percent of all home-equity lines of credit and 35 percent of home-equity loan originations. Data identifying the presence and purpose of home-equity lending will enable government, industry, and the public to potentially avert similar scenarios in the future. Secondly, housing equity has long been the most important form of household savings and consumers often resort to tapping their home equity for various purposes. Providing a full picture of home-equity secured consumer lending would be especially important for determining whether financial institutions are serving the housing needs of their communities. Again, the optional reporting of these transactions under the current Regulation C leaves this picture incomplete. Finally, mandatory reporting of home-equity secured lending would guard against regulatory gaming by financial institutions. To the extent that home-equity lines of credit and home-equity loans are largely interchangeable for customers applying for credit for a given purpose, lenders could intentionally recommend open-end home-equity lines of credit as substitutes for closed-end home-equity loans in order to avoid mandatory reporting of the home-equity loans. Therefore, mandatory reporting of both home-equity loans and home-equity lines of credit would mitigate such misaligned incentives and ultimately benefit consumers by closing the data reporting gap.

Including mandatory reporting of reverse mortgages also provides benefit to consumers. Reverse mortgages are a special mortgage product designed to satisfy the later-life consumption needs of seniors by leveraging their home equity while permitting them to maintain homeownership. In its Fiscal Year 2013, HUD endorsed in total 60,091 home-equity conversion mortgages (HECM), which counted for almost all of the reverse mortgage market. Various stakeholders and advocates have called for closer monitoring of the reverse mortgage market based on concerns of potential abuse to vulnerable seniors. Mandatory reporting of all reverse mortgages will provide public officials, community organizations, and members of the public with more information to assist consumers age 62 or older. This change is consistent with Congress's decision to include age in the Dodd-Frank Act, signaling its intention to strengthen protections for seniors.

Additionally, the proposed changes to transactional coverage would benefit consumers by improving fair lending analyses. Regulators, community groups, and researchers use HMDA data to identify disparities in mortgage lending based on race, ethnicity, and sex. These analyses are used for prioritization and scoping purposes to select the institutions and parts of institutions to review. Based on information from HUD and Moody's Analytics (May 2013), HMDA data currently include approximately 1 percent of home-equity lines of credit and 35 percent of home-equity loans. The extent of reverse mortgage reporting under HMDA is unknown because the existing data provide no way to distinguish reverse mortgages from other loans, but the Bureau believes that a substantial number of reverse mortgages are not reported under HMDA. Because a substantial amount of these transactions are not reported, it is not possible during prioritization analyses to develop a clear assessment of the fair lending risk to consumers of these specific products. In addition, all of these products may have unique underwriting and pricing guidelines that would merit separate analyses. It is not currently possible to identify these products in HMDA, however, so most fair lending analyses that use HMDA data combine these products and other products with potentially different underwriting and pricing standards. This shortcoming reduces the reliability of risk assessment analyses, limiting the ability to identify consumers that might have been impacted by potential discrimination.

Mandatory reporting of preapproval requests that are approved but not accepted will also benefit consumers through improved fair lending analyses. Data about preapproval requests that are approved but not accepted are optionally reported. Thus these data are largely absent from the HMDA data that regulators and community groups analyze. Including these preapproval requests would improve fair lending analysis by providing a more accurate comparison between those applications that satisfy a financial institution's underwriting criteria and those that did not.

The proposed rule also improves the ability of public officials to distribute public-sector investment so as to attract private investment to areas where it is needed. HMDA data provide a broadly-representative picture of home lending in the nation unavailable from any other data source. Home-equity lines of credit and home-equity loans are important forms of lending that are considered in evaluations under the CRA. Mandatory reporting of all open-end lines of credit, home-equity loans, and reverse

[613] Michael LaCour-Little, Wei Yu, and Libo Sun, *The Role of Home Equity Lending in the Recent Mortgage Crisis,* 42 Real Estate Economics 153 (2014).

[614] *See* Atif Mian and Amir Sufi, *House Prices, Home Equity-Based Borrowing, and the U.S. Household Leverage Crisis,* 101 American Economic Review 2132, 2154 (2011); Donghoon Lee, Christopher Mayer, and Joseph Tracy, *A New Look at Second Liens,* Fed. Reserve Bank of New York Staff Report No. 569, at 11 (2012); Michael LaCour-Little, Wei Yu, and Libo Sun, *The Role of Home Equity Lending in the Recent Mortgage Crisis,* 42 Real Estate Economics 153 (2014).

[615] *See* Vicki Been, Howell Jackson, and Mark Willis, Furman Ctr. for Real Estate and Urban Policy, *Essay: Sticky Seconds—The Problems Second Liens Pose to the Resolution of Distressed Mortgages* 13–18 (2012).

mortgages will improve HMDA's coverage of mortgage markets, which in turn will enhance its usefulness for identifying areas in need of public and private investment and thereby benefit consumers.

Similarly, the proposed rule also improves the ability to determine whether financial institutions are serving the housing needs of their communities. Mandatory reporting of all open-end lines of credit, home-equity loans, and reverse mortgages will improve HMDA's coverage of the market for these specific products. This will enhance the usefulness of the data for assessing whether financial institutions are serving their communities.

Costs to consumers. The proposals related to transactional coverage would eliminate reporting of unsecured home-improvement loans. The Bureau estimates that financial institutions reported approximately 340,000 unsecured home improvement loans under HMDA during 2012. This comprised 1.8 percent of the total record volume. With this proposed revision, regulators, community groups, and researchers will no longer be able to use HMDA data to assess fair lending risks for this product, which would reduce the likelihood of identifying consumers who are potentially disadvantaged when taking out unsecured home-improvement loans. In addition, it is also possible that the general loss of data may negatively affect research in other unexpected ways and thus negatively impact consumers. However, despite these risks, the Bureau is not aware of any instances where HMDA data on unsecured home improvement loans were used to determine if a financial institution was serving the housing needs of a community or to identify opportunities for public or private investment.

The proposed transactional coverage will not impose any direct costs on consumers. Consumers may bear some indirect costs of the proposed changes if financial institutions that would be required to report home-equity lines of credit, home-equity loans, reverse mortgages, and preapproval requests that are approved, but not accepted passed on some or all of the costs imposed on them by the proposed rule. Following microeconomic principles, the Bureau believes that these financial institutions will pass on increased variable costs to future mortgage applicants, but absorb one-time costs and increased fixed costs. The Bureau estimates that the overall impact of the proposed rule on variable costs per application is approximately $2 for a representative tier 3 financial institution, $0.11 for a representative tier 2 financial institution, and $0.07 for a representative tier 1 financial institution.[616] Thus, the Bureau expects that a representative tier 3 financial institution affected by this proposed change would pass on to mortgage applicants $2 per application; a representative tier 2 financial institution affected by this proposed change would pass on to mortgage applicants $0.11 per application; and a representative tier 1 financial institution affected by this proposed change would pass on to mortgage applicants $0.07 per application. This expense will be amortized over the life of the loan and represents a negligible increase in the cost of a mortgage loan. Therefore, the Bureau does not anticipate any material adverse effect on credit access in the long or short term if financial institutions pass on the costs of reporting under the proposed transaction coverage to consumers.

During the Small Business Review Panel process, some small entity representatives noted that they would attempt to pass on all increased compliance costs associated with the proposed rule, but that this would be difficult in the current market where profit margins for mortgages are tight, especially for smaller financial institutions. In addition, some small entity representatives noted that they would attempt to pass on costs through higher fees on other products offered, leave geographic or product markets, or spend less time on customer service. If lenders attempt and are able to pass on more than increases in variable costs to consumers, these estimates of the cost to consumers may be conservative. Nevertheless, the Bureau believes any such additional costs would be small relative to general cost of credit of mortgage loans amortized over the life of the loans.

Benefits to covered persons. The proposals related to transactional coverage would eliminate reporting of unsecured home improvement loans. Using 2012 HMDA data, as well as information from interviews of financial institutions, the Bureau estimates that, on average, tier 3, tier 2, and tier 1 financial institutions receive approximately 1, 20, and 900 applications for unsecured home improvement products, respectively. Excluding those average numbers of unsecured home improvement loans from reporting would reduce operational costs by approximately $70 for a representative tier 3 financial institution, $750 for a representative tier 2 financial institution, and $5,200 for a representative tier 1 financial institution per year.[617] This translates into a market-level savings of $2,000,000 to $5,000,000 per year. Using a 7 percent discount rate, the net present value of this impact over five years would be a reduction in cost of $8,300,000 to $20,500,000.

Requiring reporting of all open-end lines of credit, home-equity loans, reverse mortgages, and preapprovals that are approved, but not accepted will improve the prioritization process regulators and government enforcement agencies use to identify institutions at higher risk of fair lending violations. This improvement will reduce the false positives that occur when inadequate information causes lenders with low fair lending risk to be initially misidentified as high risk. Additional information on these products will explain some of these false positives, so that examination resources are used more efficiently and that lenders with low fair lending risk receive a reduced level of regulatory scrutiny.

One-time costs to covered persons. Based on outreach efforts, the Bureau believes that many financial institutions process applications for home-equity products, including reverse mortgages, on separate data platforms and data systems in different business units than purchase and refinance mortgages. Financial institutions not currently reporting home-equity products under HMDA will incur one-time costs to develop reporting capabilities for these business lines. Financial institutions, whether they use vendors for HMDA compliance or develop software internally, will incur one-time costs associated with preparation, development, implementation, integration, troubleshooting, and testing of new systems for these business units. Management, operation, legal, and compliance personnel in these business lines will likely require time to learn the new reporting requirements and assess legal and compliance risks. In all cases, financial institutions will need to

[616] These cost estimates do not incorporate the impact of adding operational changes affecting geocoding, DES processing, and help sources. These estimated changes to variable costs are due solely to the proposed change to transaction coverage requiring reporting of all open-end lines of credit, home-equity loans, and reverse mortgages, as well as preapproval requests that are approved, but not accepted. As such, they differ from estimated changes to variable costs presented earlier, which reflected the impact of all proposed changes including additional data points, alignment with industry data standard and changes in transaction coverage.

[617] These estimates do not include potential cost savings from proposed changes in operations including geocoding, DES process and help sources.

update training materials to reflect new requirements and may incur certain one-time costs for providing initial training to current employees. The Bureau is aware that these activities will take time and that the costs may be sensitive to the time available for them.

The Bureau expects these one-time costs to be smaller for financial institutions that are less complex and less likely to have separate business lines with separate data platforms and data systems for home-equity products. These entities use less complex reporting processes, so tasks are more manual than automated, and new requirements may involve greater use of established processes. As a result, compliance would likely require straightforward changes in systems and workplace practices and therefore impose relatively low one-time costs. The Bureau believes that for these less-complex financial institutions, the one-time costs associated with the proposed change in transactional coverage would be captured by the overall estimate of the one-time costs the institutions would incur in response to the entire proposed rule. Thus, the Bureau estimates that the proposed rule will impose average one-time costs of $3,000 for tier 3 financial institutions.

For more complex financial institutions, the Bureau expects the one-time costs imposed by the proposed change in transactional coverage to be relatively large. To estimate these one-time costs, the Bureau views the business line responsible for home-equity products as a second business line that has to modify its reporting infrastructure in response to the proposed rule. Industry repeated this view of additional costs during the Bureau's outreach prior to this proposal. However, no financial institutions or trade associations have provided the Bureau with specific estimates of the one-time cost associated with this change. Some industry participants generally stated that the one-time cost of mandatory reporting of all home-equity lines of credit, home-equity loans, and reverse mortgages could be twice as much as the one-time cost of adapting to other parts of the proposed rule, but did not provide any further detail. The Bureau estimates that the overall proposed rule will impose average one-time costs of $250,000 for tier 2 financial institutions and $800,000 for tier 1 financial institutions, excluding reporting of home-equity lines of credit, home-equity loans, and reverse mortgages. The Bureau assumes that the one-time cost of integrating home-equity products into the HMDA reporting processes would be roughly equal to 50 percent of the one-time costs absent mandatory reporting of such products. This estimate accounts for the fact that some new systems may have to be built to facilitate reporting for these lines of business but that some fixed, one-time costs could be shared with lines of business currently subject to Regulation C because both have to undergo systemic changes. Using this general estimate (*i.e.* one-and-one-half times as much) for all tier 1 and tier 2 institutions, therefore, the Bureau estimates one-time costs of $250,000 and $800,000 for business lines responsible for purchase and refinance products and an additional $125,000 and $400,000 for business lines responsible for home-equity products.

In total, this yields an overall market impact between $383,000,000 and $2,100,000,000. Using a 7 percent discount rate and a five-year amortization window, the annualized one-time cost is $93,400,000 to $514,900,000. As a frame of reference for these market-level, one-time cost estimates, the total non-interest expenses of current HMDA reporters were approximately $420 billion in 2012. The upper bound estimate of $2.1 billion is approximately 0.5 percent of the total annual non-interest expenses.[618] Because these costs are one-time investments, financial institutions are expected to amortize these costs over a period of years.

The Bureau has taken a conservative approach to estimating the one-time costs because of the uncertainty regarding how many financial institutions belong to each of the three representative tiers. Thus, the Bureau has mapped out all possible distributions to arrive at the lower bound and higher bound cost estimates, as explained in part VI.F.2, above. The Bureau hopes to obtain more information on the distribution of financial institutions across the three tiers and to refine its estimate of these one-time costs through feedback received during the rulemaking process. In particular, the Bureau seeks additional information on the number of HMDA reporters that are moderate complexity, tier 2 institutions.

For proposed mandatory reporting of preapproval requests that are approved, but not accepted, the Bureau believes that the primary impact will be on ongoing operational costs rather than on one-time costs. Financial institutions are currently required to report whether a preapproval was requested for home purchase loans, and whether the preapproval was approved (if accepted) or denied, so the infrastructure to report preapproval information is already in place. Expanding mandatory reporting to all outcomes of the preapproval process therefore primarily impacts the ongoing, operational tasks required to gather information and data on additional reportable transactions.

Ongoing costs to covered persons. The proposal would mandate reporting of all open-end lines of credit, home-equity loans, and reverse mortgages, as well as preapproval requests that were approved, but not accepted. This change would potentially increase the number of applications and loans that financial institutions must report, thereby increasing the cost of HMDA reporting. Using HMDA data, along with information from HUD, Moody's Analytics (May 2013), and industry interviews, the Bureau estimated the total number of open-end lines of credit, home-equity loans, and reverse mortgages, as well as preapproval requests that were approved, but not accepted in the market and the portion currently in HMDA. Based on these estimates, these transactions were then allocated among lenders proportionately to the lender's loan application register size. The Bureau estimated that, on average, tier 3 financial institutions receive approximately two applications for open-end lines of credit, one application for home-equity loans, no applications for reverse mortgages, and no preapproval requests that were approved, but not accepted. On average, tier 2 financial institutions receive an estimated 45 applications for open-end lines of credit, 15 applications for home-equity loans, no applications for reverse mortgages, and five preapproval requests that were approved, but not accepted. On average, tier 1 financial institutions receive an estimated 2,200 applications for open-end lines of credit, 700 applications for home-equity loans, five applications for reverse mortgages, and 245 preapproval requests that were approved, but not accepted.

Reporting data for these additional loans would increase operational costs by approximately $265, $2,400 and $16,500 per year for representative tier 3, tier 2 and tier 1 financial institutions, respectively.[619] This translates into a market-level cost of $6,800,000 to

[618] The Bureau estimated the total non-interest expense for banks, thrifts and credit unions that reported to HMDA based on Call Report and NCUA Call Report data for depository institutions and credit unions, and NMLS data for non-depository insitutions, all matched with 2012 HMDA reporters.

[619] These estimates do not include potential cost savings from proposed changes in operations including geocoding, DES process, and help sources.

$16,000,000 per year. Using a 7 percent discount rate, the net present value of this cost over five years is $27,800,000 to $65,100,000.

Initial outreach efforts, as well as information gathered during the Small Business Review Panel process, indicated that uncertainty regarding reportability generated significant costs for financial institutions. In addition to the proposed rule, the Bureau is separately considering operational enhancements and modifications. For example, the Bureau is considering working to consolidate the outlets for assistance, providing guidance support similar to the guidance provided for title XIV rules; improving point of contact processes for help inquiries; modifying the types of edits and when edits are approved; exploring opportunities to improve current DES; and considering approaches to reduce geocoding burdens. All of these enhancements will clarify reportability issues, improve processing, and reduce burden. With the inclusion of these operational improvements, operational costs would increase by approximately $180, $1,900, and $15,700 per year, for the representative entities in tier 3, tier 2 and tier 1, respectively. This translates into a market-level cost of $5,900,000 to $13,300,000 per year. Using a 7 percent discount rate, the net present value of this cost over five years is $24,300,000 to $54,400,000.

Alternatives considered. Because industry participants raised questions regarding the quality of preapproval data, the Bureau also considered excluding preapprovals from reporting requirements. Based on a review of 2012 HMDA data, the Bureau estimates that on average tier 3 financial institutions receive 1 request for a preapproval a year, tier 2 financial institutions receive 15 requests a year, and tier 1 financial institutions receive 700 requests a year. The estimated reduction in the operational cost of reporting data for these preapprovals is approximately $50, $565 and $3,900 per year, for representative tier 3, tier 2, and tier 1 financial institutions, respectively.[620] This translates into a market-level impact of $1,500,000 to $3,700,000 per year. Using a 7 percent discount rate, the net present value of this savings over five years is $6,200,000 to $15,400,000.

Including the proposed operational improvements reduces the estimated operational costs of reporting data for preapprovals by approximately $45, $460 and $3,700 per year for representative tier 3, tier 2 and tier 1 financial institutions, respectively. This translates into a market-level savings of $1,400,000 to $3,200,000 per year. Using a 7 percent discount rate, the net present value of this savings over five years is $5,800,000 to $12,900,000.

5. The Data That Financial Institutions Are Required To Report About Each Loan or Application

For each application, originated loan, or purchased loan submitted as part of a financial institution's loan application register, Regulation C currently requires reporting of 35 separate pieces of information, and allows for optional reporting of three denial reasons.[621] Throughout this section, the Bureau uses the term ''data point'' to convey general data information and ''data field'' to convey the specific information financial institutions must report. For example, race is one data point with ten data fields (five for primary applicant race and five for co-applicant race). The Dodd-Frank Act amended HMDA by enhancing two existing data points (rate spread and application ID) and identifying 11 new data points.[622] As part of this rulemaking, the Bureau is comprehensively reviewing all current data points in Regulation C, carefully examining each data point specifically mentioned in the Dodd-Frank Act, and considering proposals to collect other appropriate data points to fill gaps where additional information could be useful to better understand the HMDA data.

The proposed revisions include improvements and technical revisions to current Regulation C data requirements; the implementation as required or appropriate of the categories of information specifically identified in the Dodd-Frank Act; and the addition of other data points that fill existing informational gaps and would further the purposes of HMDA. To the extent practicable, all of these proposed changes align new data fields and definitions with industry data standards. In order to develop this proposed alignment, the Bureau analyzed each data point currently included in Regulation C, each new data point identified in the Dodd-Frank Act, and each additional data point under consideration by the Bureau to determine whether analogous data exist in the ULDD data set (first preference) or the larger MISMO data dictionary (second preference). In each instance, the MISMO/ULDD definitions would need to be adequate to meet the objectives of HMDA and Regulation C. For data points that cannot be aligned with MISMO/ULDD, the Bureau is considering aligning data points with definitions provided by other regulations, or using a completely new definition.

Current HMDA data points. Currently, financial institutions are required to collect and report information for 35 data fields, and have the option of reporting three additional fields conveying denial reasons. For these 35 mandatory fields, the proposed rule will increase the number of required fields by four. Three of these additional data fields convey denial reasons, for which reporting will change from optional to mandatory. The fourth additional data field is for property type. To align this data point with industry data standards, the current property type field will be replaced by two fields (number of units and construction method), both of which are in MISMO and ULDD. This change yields a net increase of one data field for property type.

In addition to adding four data fields, the proposed rule will also change the information reported for eight current HMDA data fields. These revisions address changes required by the Dodd-Frank Act, align current HMDA fields with industry data standards, and close information gaps. Specifically, to address changes required by the Dodd-Frank Act, the financial institution's identifier will be replaced by a Legal Entity Identifier, application ID will be replaced by a unique, robust ID number, and rate spread will be required for all originations covered by Regulation Z. As part of the effort to align current data fields with MISMO/ULDD, occupancy will be revised to convey primary home, second home or investment property, and lien status will be expanded to allow for third, fourth, and fifth liens. Finally, to close information gaps, loan amount will be reported in dollars instead of thousands of dollars; an additional ''other'' category will be added to loan purpose; the HOEPA flag will be revised to convey whether HOEPA was triggered by rate, points and fees, or both; and lien status will be required for purchased loans.

[620] These estimates do not include potential cost savings from proposed changes in operations including geocoding, DES process and help sources.

[621] The 35 pieces of information are respondent ID, agency code, application number, application date, loan type, property type, purpose, occupancy, loan amount, preapprovals, action, action date, MSA, State, county, census tract, applicant ethnicity, applicant sex, five applicant race data fields, co-applicant ethnicity, co-applicant sex, five co-applicant race data fields, income, purchaser, rate spread, HOEPA status, and lien status.

[622] These 11 data points consist of total points and fees, prepayment penalty term, introductory interest rate term, non-amortizing features, loan term, application channel, universal loan ID, loan originator number, property value, parcel number, age and credit score.

Current HMDA data points—benefits to consumers. The Bureau believes that the proposed revisions to the current HMDA data fields, which increase the amount of information included in HMDA, will improve current processes used to identify possible discriminatory lending patterns and enforcing antidiscrimination statutes. The following discussion provides several examples of how the revised existing variables would ultimately benefit consumers by facilitating enhanced fair lending analyses. The supplementary information contained in part V, above, provides more detailed exposition on each of the enhanced data points.

For example, the reason for denial is a key data point used to understand underwriting decisions and focus fair lending reviews. Currently, § 1003.4(c)(1) permits optional reporting of the reasons for denial of a loan application. Mandatory reporting of this information, pursuant to proposed § 1003.4(c)(16), combined with enhanced or additional data points commonly used in underwriting decisions, will provide more consistent and meaningful data, thereby improving the ability to identify both discriminatory lending patterns in underwriting decisions and consumers who have been disadvantaged so that appropriate restitution can be provided. In addition, denial reasons combined with careful analysis of key underwriting variables could help reduce the false positive rate of fair lending prioritization analyses, leading to better targeting of fair lending reviews and thereby reducing compliance costs to some covered persons subject to fair lending exams.

Additionally, rate spread is currently the only quantitative pricing measure in HMDA, and it is only available for originated loans meeting or exceeding the higher-priced mortgage loan thresholds for first- and second-lien loans. Expanding reporting of rate spread to all originations covered by Regulation Z, except purchased loans and reverse mortgage transactions, greatly enhances HMDA's usefulness for analyzing fair lending risk in pricing decisions. This proposed change will also reduce the false positive rate observed during fair lending prioritization analyses so that the resources of regulators and financial institutions are used more efficiently. This information will also improve the limited picture of the cost of credit provided by current HMDA data.

The proposed rule would revise data regarding occupancy status by requiring separate itemization of second residences and investment properties, and data regarding property type by adding the total number of units and number of units that are income-restricted pursuant to affordable housing programs. These revisions would allow more accurate accounting of the differences in underwriting and pricing policies and outcomes and hence would reduce false positive rates in current fair lending prioritization processes used by regulatory agencies.

The Bureau also believes that the proposed revisions to the current HMDA data fields, which increase the amount of information included in the HMDA dataset, will improve the ability to assess whether financial institutions are meeting the housing needs of their communities and assist public officials in making decisions about public-sector investments. The denial reason data fields will provide greater understanding of why credit is denied or offered to specific communities, and the rate spread data point will provide additional information about the affordability of the credit offered.

Additionally, the proposed revisions to the occupancy status data field would provide finer gradients by separately identifying second homes and investment properties, which would help identify trends involving potentially speculative purchases of housing units similar to those that contributed to the recent financial crisis. Recent research suggests that speculative purchases by investors were one potential driver of the recent housing bubble and subsequent financial crisis.[623] These impacts may be especially relevant for areas that are experiencing sharp increases in investor purchases. Thus, information related to second homes and investment properties may help communities and local officials develop policies tailored to the unique characteristics associated with these separate segments of the mortgage market.

Finally, proposed revisions to the property type data field would be of particular interest in the wake of the housing crisis as families have increasingly turned to rental housing. Greater detail about multifamily housing finance may provide additional information about whether financial institutions are serving the housing needs of their communities

Current HMDA data points—costs to consumers. The proposed revisions to the current HMDA data fields will not impose any direct costs on consumers. Consumers may bear some indirect costs if financial institutions pass on some or all of the costs imposed on them by the proposed rule. Following microeconomic principles, the Bureau believes that financial institutions will pass on increased variable costs to future mortgage applicants, but absorb one-time costs and increased fixed costs if markets are perfectly competitive and financial institutions are profit maximizers. The impact of the proposed changes to the eight current HMDA data fields will affect only one-time costs, as financial institutions modify their infrastructure to incorporate the proposed data point specifications. The only proposed revision to current HMDA data fields that impacts variable costs is the addition of four data fields. To construct cost impact estimates, the Bureau treated the three denial reason variables as new variables and the additional property type field as a new variable that aligns with MISMO/ULDD. The Bureau estimates that the impact of this component of the proposed rule on variable costs per application is approximately $2 for a representative tier 3 financial institution, $0.06 for a representative tier 2 financial institution, and $0.01 for a representative tier 1 financial institution. This expense will be amortized over the life of the loan and represents a negligible increase in the cost of a mortgage loan. Therefore, the Bureau does not anticipate any material adverse effect on credit access in the long or short term if financial institutions pass on these costs to consumers.

During the Small Business Review Panel process, some small entity representatives noted that they would attempt to pass on all increased compliance costs associated with the proposed rule, but that this would be difficult in the current market where profit margins for mortgages are tight. In addition, some small entity representatives noted that they would attempt to pass on costs through higher fees on other products offered, leave geographic or product markets, or spend less time on customer service.

Current HMDA data points—benefits to covered persons. Aligning current HMDA data fields with industry data standards would benefit financial institutions. Currently, HMDA data are submitted in the loan application register format, except for financial institutions that report 25 or fewer entries, which may submit their loan application register entries in paper format.[624] The current loan application

[623] *See* Andrew Haughwout, Donghoon Lee, Joseph Tracy, and Wilbert van der Klaauw, *Real Estate Investors, the Leverage Cycle, and the Housing Market Crisis,* Fed. Reserve Bank of N.Y. York Staff Report No. 514 (2011).

[624] *See* comment 5(a)–2.

register format may not be directly compatible with the records of mortgage loan applications in loan origination systems and may have created extra burden on financial institutions that had to use additional software and modify data in existing systems in order to submit HMDA data in the proper format.

The Bureau believes that the burden associated with Regulation C compliance and data submission can be reduced by aligning the requirements of Regulation C to existing industry standards for collecting and transmitting data on mortgage loans and applications. Promoting consistent data standards for both industry and regulatory use has benefits for market efficiency, market understanding, and market oversight. The efficiencies achieved by such alignment should grow over time, as the industry moves toward common data standards platforms. In light of these considerations, the Bureau is proposing to align the HMDA data requirements, to the extent practicable, with the widely-used MISMO standards for residential mortgages, including the ULDD that is used in the delivery of loans to the government-sponsored entities.

For example, many lenders already separately identify second residence and investment properties in their underwriting process and LOS. Separate enumeration of these properties is present in MISMO/ULDD. Therefore, aligning to industry standards would reduce burden for financial institutions by maintaining the same definition for HMDA reporting that they use in the ordinary course of business. Smaller, less-complex financial institutions will experience fewer potential benefits because these institutions rely on more manual reporting processes and are more likely to originate portfolio loans where MISMO/ULDD may have not been adopted.

Among current HMDA data fields, property type, occupancy, and lien status will be modified to align with MISMO/ULDD. This alignment will reduce costs for training and researching questions. The Bureau estimates that this alignment will reduce operational costs by approximately $100, $900, and $8,600 per year for representative tier 3, 2, and 1 financial institutions, respectively.[625] This translates into a market-level impact of $3,300,000 to $6,500,000 per year. Using a 7 percent discount rate, the net present value of this savings over five years is $13,500,000 to $26,800,000. With the inclusion of proposed operational improvements, the estimated reduction in operational costs is approximately $100, $850, and $8,400 per year for representative tier 3, tier 2, and tier 1 financial institutions, respectively. This translates into a market-level savings of $3,200,000 to $6,200,000 per year. The net present value of this savings over five years is $13,000,000 to $25,500,000. The Bureau seeks comment about the potential impact on financial institutions of aligning the HMDA data requirements with MISMO/ULDD data standards.

Current HMDA data points—ongoing costs to covered persons. Specific to the current set of HMDA data points, the proposed rule increases the number of data fields by four and alters the information provided for eight other fields. The cost impact of these changes on covered persons will vary by data field. For example, some data fields may depend on multiple sub-components or information from multiple platforms. To capture these potential differences, the Bureau estimated different costs depending on whether a proposed data field is aligned with ULDD, MISMO, or another regulation, or is a completely new variable.

Adding three new variables (denial reasons) and one variable aligned with ULDD (occupancy status) increases costs because financial institutions now have to report four additional fields. Adding these additional data fields increases the costs of transcribing data, transferring data to HMS, conducting annual edits/checks, and conducting external audits. The Bureau estimates that this component of the proposed rule would increase operational costs by approximately $135, $860, and $2,200 per year for representative tier 3, tier 2, and tier 1 financial institutions, respectively.[626] Property type would be a new data field for all reporters, while denial reason would only be a new data field for reporters currently choosing not to report it. In the 2012 HMDA data, approximately 30 percent of HMDA reporters did not provide denial reasons, and approximately 20 percent of all denials did not have data regarding the reason for denial. Further analysis reveals that, compared to other HMDA reporters, HMDA reporters currently providing data regarding denial reasons had larger loan application registers and reported almost twice as many denials. Therefore, requiring mandatory reporting of denial reasons will only impact about 30 percent of reporters, and these reporters will likely be smaller institutions. With all reporters having to start reporting the additional property type data field and 30 percent of reporters having to start reporting the denial reasons, the Bureau estimates the market-level cost of this proposed change to be between $770,000 and $2,400,000. Using a 7 percent discount rate, the net present value of the cost increase over five years is $3,100,000 to $9,800,000.

With the inclusion of the operational improvements the Bureau is considering, the proposed rule will increase operational costs by approximately $105, $550, and $1,680 per year for representative tier 3, tier 2, and tier 1 financial institutions, respectively. This translates into a market-level cost of between $570,000 and $1,500,000. Using a 7 percent discount rate, the net present value over five years would be a cost increase of $2,300,000 to $6,000,000.

The primary cost impact of modifying eight existing data fields, three of which would align with ULDD, will be increases in one-time costs to modify current reporting policies and procedures, update software systems, and conduct training and planning. These cost impacts will generally be addressed in the discussion of one-time costs below, except for the proposed requirement that financial institutions obtain and report an LEI instead of the current reporter's ID. The Bureau estimates that the one-time cost of acquiring an LEI is approximately $200 with an ongoing cost of approximately $100 per year. This translates into an estimated market-level impact of $1,480,000 in one-time costs and an increase of $740,000 in ongoing costs per year. For one-time costs, using a 7 percent discount rate and five-year window, the annualized cost is $361,000. For ongoing costs, using a 7 percent discount rate, the net present value over five years is an increase in costs of approximately $3,000,000.

Current HMDA data points—alternatives considered. The Bureau did not consider any other alternative proposals that would have impacted the current HMDA data points.

New HMDA data points. The proposed rule requires financial institutions to report 37 additional data fields under HMDA. This number does not include unique loan ID, rate spread for all originations, or total units, each of which replaces a data field currently reported under HMDA. The Dodd-Frank Act identified 13 additional data points. Excluding unique loan ID and rate

[625] These estimates do not include potential cost savings from proposed changes in operations including geocoding, DES process and help sources.

[626] These estimates do not include potential cost savings from proposed changes in operations including geocoding, DES process and help sources.

spread, which replace data fields currently reported under HMDA, the remaining 11 Dodd-Frank Act-identified data points translate into 17 data fields financial institutions would have to report on their loan application registers. To fill information and data gaps, the Bureau is proposing to add 13 additional data points, which translates into 20 data fields financial institutions would have to report on their loan application register. For these 37 additional data fields, 19 are aligned with ULDD, two are aligned with MISMO, one is aligned with another regulation. The remaining 15 data fields are not in MISMO or ULDD, or aligned with another regulation.[627]

New HMDA data points—benefits to consumers. The proposed additional data points would have several benefits to consumers. First, the proposed additional fields will improve the usefulness of HMDA data for analyzing mortgage markets by regulators and the public. For example, data points such as non-amortizing features, introductory interest rate, prepayment penalty, and home-equity line of credit indicator are related to certain high-risk lending concerns, and reporting this information will enable a better understanding of the types of products and features consumers are receiving. Recent research has indicated that each of these products and product characteristics have increased likelihoods of default and foreclosure and may have exacerbated the recent housing crisis. In addition to being better able to identify some of the risk factors that played a role in the recent financial crisis, adding additional data points on pricing and underwriting will improve current research efforts to understand mortgage markets. All of these enhancements will allow for improved monitoring of trends in mortgage markets and help identify and prevent problems that could potentially harm consumers and society overall.

Second, the additional data points will improve current policy efforts designed to address various market failures. As discussed previously, the mortgage market is characterized by information asymmetry and this inherent deficiency was made apparent during the financial crisis. In response to the recent financial crisis, the government has pursued a number of policies aimed at regulating the market and protecting consumers. The additional data points being proposed will help inform future policy-making efforts by improving consideration of the benefits and costs associated with various choices, resulting in more effective policy. As an example, many recent regulations have limited the types of risky mortgage products that lenders can make to borrowers without fully considering borrowers' ability to repay. New data fields on non-amortizing features, introductory interest rate, prepayment penalty, debit-to-income ratio, and the qualified mortgage indicator can assist future assessment of the effectiveness of such regulations and facilitate adjustments when needed.

Third, the additional data points will help determine whether financial institutions are serving the housing needs of their communities and help public officials target public investment to better attract private investment. For example, the proposed data points related to manufactured housing would reveal more information about this segment of the market. Borrowers in manufactured housing are typically more financially vulnerable than borrowers in site-built housing and may deserve closer attention from government agencies and community groups. Similarly, the proposed data points related to multifamily dwellings would reveal more information about this segment of the market, which mostly serves low- to mid-income renters who live in these financed units. Advocacy groups and government agencies have raised concerns over affordability issues faced by individuals living in multifamily dwellings, who also tend to be more financially vulnerable. Overall, by permitting a better and more comprehensive understanding of these markets, the proposal will improve the usefulness of HMDA data for assessing the supply and demand of credit, and financial institutions' treatment of applicants and borrowers in these communities.

Fourth, the Bureau believes that the additional data points will improve current processes used to identify possible discriminatory lending patterns and enforce antidiscrimination statutes. Financial regulators and enforcement agencies use HMDA data in their initial prioritization and screening processes to select institutions for examination and as the base dataset during fair lending reviews. The additional data will allow for improved segmentation during these analyses, so that applications are compared to other applications for similar products. For example, underwriting and pricing policies often differ for open-end lines of credit, home-equity loans, reverse mortgages, and products with different amortization types. Currently, these products are all combined during prioritization and screening analyses. With additional data fields identifying these products, separate analyses can be conducted for each product, which will more accurately reflect outcomes for consumers. As a second example, pricing often differs across delivery channels, because pricing policies and processing differ, and because intermediaries, such as brokers, add an additional layer requiring compensation. The addition of the origination channel data point will permit the separation of originations for pricing analyses, allowing for a better understanding of the drivers of pricing outcomes. Improved segmentation improves the accuracy of fair lending analyses, which improves the usefulness of HMDA to identify potentially disadvantaged consumers.

The additional data points on pricing will greatly improve the usefulness of HMDA data for assessing pricing outcomes. Currently, the rate spread data field is the only quantitative pricing measure included in the current HMDA data . This data field includes rate spread data only for higher-priced mortgage loans, which currently comprise less than 5 percent of originated loans in the HMDA data. Thus, in today's environment, and for the foreseeable future, the usefulness of this data field is highly limited. In addition, mortgage products and pricing structure are inherently complex. APR alone, though useful and recognizable to borrowers, fails to capture the true cost of a mortgage loan. Adding discount points, interest rate, and risk-adjusted, pre-discounted interest rate will provide a much clearer understanding of the trade-offs between rates and points that are the foundation of mortgage pricing. The total points and fees and origination-charge data fields will provide a deeper understanding of the third component of mortgage pricing: Fees.

Many of the additional data points capture legitimate factors financial institutions use in underwriting and pricing that are currently lacking in the HMDA data, helping regulators and government enforcement agencies to better understand disparities in outcomes. Many, if not all, lenders consider data points such as credit score, CLTV, DTI, and AUS results when either underwriting or pricing mortgage applications. The addition of

[627] Some data fields were aligned with multiple sources. For example, total points and fees is aligned with ULDD and Regulation Z. For the consideration of costs and benefits, the Bureau assigned each data field to one source. The following hierarchy was used for data fields aligned to multiple sources: (1) ULDD, (2) MISMO, (3) another regulation, and (4) not aligned to another source.

these types of data points will help users understand patterns in underwriting and pricing outcomes and thus better assess the fair lending risk presented by those outcomes.

Finally, the addition of the age data field will allow users to analyze outcomes for different age groups. Although consumers are protected against discrimination on the basis of age by ECOA and Regulation B, HMDA data lack a direct means of measuring the age of applicants, which limits the ability of government agencies and community groups to monitor and enforce the ECOA and Regulation B against age discrimination in mortgage markets. The addition of the age data field would provide a clearer understanding of different age groups. In particular, older individuals are one demographic group that is potentially at a higher risk of discrimination, as well as unfair, deceptive, or abusive acts or practices. This data is especially important as baby boomers enter retirement. The addition of the age data field would allow regulatory agencies and community groups to identify potential differential treatment of older Americans for various mortgage products. For example, reverse mortgages are designed to serve senior consumers and are priced based on age factors, providing an illustration of the importance of adding this data field to the HMDA data. The age data field will allow users of HMDA data to better understand reverse mortgages, increasing HMDA's usefulness for assessing whether financial institutions are meeting the credit needs of older populations in their communities when offering these products. Age data might also help inform housing policies designed to assist seniors in maintaining or obtaining home ownership, and building or utilizing home equity for improved social welfare.

All of these improvements would reduce the false positive rates that occur when inadequate information causes regulators and enforcement agencies to initially misidentify financial institutions with low fair lending risk as having high risk of fair lending violations. Better alignment between the degrees of regulatory scrutiny and fair lending risk would increase the likelihood of identifying any instances where consumers are being illegally disadvantaged, thereby ultimately benefitting consumers.

New HMDA data points—costs to consumers. The proposed addition of 37 data fields will not impose any direct costs on consumers. Consumers may bear some indirect costs if financial institutions pass on some or all of the costs imposed on them by the proposed rule. Following microeconomic principles, the Bureau believes that financial institutions will pass on increased variable costs to future mortgage applicants, but absorb one-time costs and increased fixed costs if markets are perfectly competitive and financial institutions are profit maximizers. The Bureau estimates that the impact of the additional 37 data fields on variable costs per application is approximately $12 for a representative tier 3 financial institution, $0.30 for a representative tier 2 financial institution, and $0.03 for a representative tier 1 financial institution. This expense will be amortized over the life of the loan and represents a negligible increase in the cost of a mortgage loan. Therefore, the Bureau does not anticipate any material adverse effect on credit access in the long or short term if financial institutions pass on these costs to consumers.

During the Small Business Review Panel process, some small entity representatives noted that they would attempt to pass on all increased compliance costs associated with the proposed rule, but that this would be difficult in the current market where profit margins for mortgages are tight. In addition, some small entity representatives noted that they would attempt to pass on costs through higher fees on other products offered, leave geographic or product markets, or spend less time on customer service.

New HMDA data points—benefits to covered persons. The Bureau believes that the additional data points will improve current processes used to identify possible discriminatory lending patterns, which could greatly reduce the burden of financial institutions subject to fair lending examinations or investigations. Financial regulators and enforcement agencies use HMDA data in their initial prioritization and screening processes to select institutions for examination or investigation, and as the base dataset during fair lending reviews. During prioritization analyses, the additional data points will provide information about the legitimate factors used in underwriting and pricing that are currently lacking in the HMDA data, helping government agencies better understand disparities in outcomes. They will also allow for improved segmentation, so that applications are compared to other applications for similar products. The additional data points on pricing will greatly enhance screening analyses of pricing decisions. All of these improvements will reduce false positives resulting from inadequate information. Examination resources will be used more efficiently, so that lenders at low risk of fair lending violations receive a reduced level of regulatory scrutiny.

New HMDA data points—one-time costs to covered persons. The proposed rule will impose one-time costs on HMDA reporters. Management, operation, legal, and compliance personnel will likely require time to learn the new reporting requirements and assess legal and compliance risks. Financial institutions that use vendors for HMDA compliance will incur one-time costs associated with software installation, troubleshooting, and testing. The Bureau is aware that these activities will take time and that the costs may be sensitive to the time available for them. Financial institutions that maintain their own reporting systems will incur one-time costs to develop, prepare, and implement the necessary modifications to those systems. In all cases, financial institutions will need to update training materials to reflect new requirements and may have certain one-time costs for providing initial training to current employees. The Bureau expects these one-time costs to be relatively small for less complex financial institutions. These entities use less complex reporting processes, so the tasks involved are more manual than automated and new requirements may involve greater use of established processes. As a result, compliance would likely require straightforward changes in systems and workplace practices and therefore impose relatively low one-time costs.

The Bureau estimates the additional reporting requirements would impose on average estimated one-time costs of $3,000 for tier 3 financial institutions, $250,000 for tier 2 financial institutions, and $800,000 for tier 1 financial institutions and without considering the expansion of transactional coverage to include mandatory reporting of all open-end lines of credit, home-equity loans, and reverse mortgages.[628] Including the estimated one-time costs to modify processes and systems for home-equity products, the Bureau estimates that the total one-time costs would be $3,000 for tier 3 institutions, $375,000 for tier 2 institutions, and $1,200,000 for tier 1 institutions. In total, this yields an overall market

[628] The Bureau realizes that the impact to one-time costs varies by institution due to many factors, such as size, operational structure, and product complexity, and that this variance exists on a continuum that is impossible to fully capture. As a result, the one-time cost estimates will be high for some financial institutions, and low for others.

impact between $383,000,000 and $2,100,000,000. Using a 7 percent discount rate and a five-year amortization window, the annualized one-time cost is $93,400,000 to $514,900,000. As a frame of reference for these market-level, one-time cost estimates, the total non-interest expenses of current HMDA reporters were approximately $420 billion in 2012. The upper bound estimate of $2.1 billion is approximately 0.5 percent of the total annual non-interest expenses.[629] Because these costs are one-time investments, financial institutions are expected to amortize these costs over a period of years.

The Bureau has taken a conservative approach to estimating the one-time costs because of the uncertainty regarding how many financial institutions belong to each of the three representative tiers. Thus, the Bureau has mapped out all possible distributions to arrive at the lower bound and higher bound cost estimates, as explained in part VI.F.2, above. The Bureau hopes to obtain more information on the distribution of financial institutions across the three tiers and to refine its estimate of these one-time costs through feedback received during the rulemaking process. In particular, the Bureau seeks additional information on the number of HMDA reporters that are moderate complexity, tier 2 institutions.

The Bureau has taken a conservative approach to estimating the one-time costs because of the uncertainty regarding how many financial institutions belong to each of the three representative tiers. Thus, the Bureau has mapped out all possible distributions to arrive at the lower bound and higher bound cost estimates, as explained in part VI.F.2, above. The Bureau hopes to obtain more information on the distribution of financial institutions across the three tiers and to refine its estimate of these one-time costs through feedback received during the rulemaking process. In particular, the Bureau seeks additional information on the number of HMDA reporters that are moderate complexity, tier 2 institutions.

New HMDA data points—ongoing costs to covered persons. The proposed rule requires financial institutions to report 37 additional data fields under HMDA. Adding these additional data fields increases the cost of many operational steps required to report data, including transcribing data, transferring data to HMS, conducting annual edits/checks, and conducting external audits. The Bureau estimates that the impact of the additional 37 data fields on annual operational costs is approximately $13,200 for a representative tier 3 financial institution, $8,400 for a representative tier 2 financial institution, and $20,800 for a representative tier 1 financial institution. This translates into a market-level cost of $15,500,000 to $48,400,000 per year. Using a 7 percent discount rate, the net present value of this cost over five years is $63,500,000 to $198,500,000. With the inclusion of the operational improvements, the estimated increase in the operational cost of reporting these 37 additional data fields is approximately $1,100, $5,300 and $15,700 per year for representative tier 3, tier 2, and tier 1 financial institutions, respectively. This translates into a market-level cost of $12,600,000 to $32,100,000 per year. The net present value of this impact over five years would be a cost increase of $51,800,000 to $131,800,000.

New HMDA data points—alternatives considered. During the rulemaking process, the Bureau considered a wide range of data fields identified during internal discussions, as well as through outreach efforts to other regulatory agencies, community groups, and industry. These alternative data fields included such items as identification of whether an applicant or borrower is self-employed, a military member, or a first-time homeowner; loan performance indicators; Principal, Interest, Taxes, and Insurance payment (PITI); and initial pricing offer. Although the cost of reporting varies by data field, the general estimated impact of an additional data field on operational costs per year is approximately $35 for a representative tier 3 financial institution, $230 for a representative tier 2 financial institution, and $560 for a representative tier 1 financial institution. The benefits are more difficult to measure, so it was not possible to identify which data fields to include by directly comparing costs and benefits. The Bureau believes that the proposed data points advance HMDA's statutory purposes while reducing unnecessary burden on financial institutions. However, the Bureau seeks additional comment and data to better understand the costs and benefits of data points. Specifically, the Bureau seeks additional comment and data on the one-time and ongoing costs of implementing each proposed new data point, which data points are more costly to gather and report and estimates of the amount of this additional cost, and supporting explanations. The Bureau is also seeking information on what data points are applicable to specific products, or whether there are any alternatives to or adjustments in each data point that would reduce burden on small while still meeting the purposes of HMDA.

6. The Proposed Modifications to Disclosure and Reporting Requirements

The proposed rule would make several changes to the disclosure and reporting requirements under Regulation C. Regulation C currently requires that a financial institution must make its ''modified'' loan application register available to the public after removing three fields to protect applicant and borrower privacy: The application or loan number, the date that the application was received, and the date action was taken. The Bureau's proposal would require that financial institutions make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register. The proposal would also permit a financial institution to make its disclosure statement available to the public by making available a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site and that includes the FFIEC's Web site address. The Bureau is also proposing to require that a financial institution that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, for the preceding calendar year submit its loan application registers to the Bureau or appropriate agency on a quarterly, rather than annual, basis. Finally, the proposal would eliminate the option for financial institutions with 25 or fewer reported transactions to submit the loan application register in paper format.

Benefits to consumers. The proposals to require that financial institutions make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register, to eliminate the option of paper reporting for financial institutions reporting 25 or fewer records, and to permit financial institutions to make their disclosure statements available to the public through a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site would have little direct benefit to consumers. These proposals do not change in any

[629] The Bureau estimated the total non-interest expense for banks, thrifts and credit unions that reported to HMDA based on Call Report and NCUA Call Report data for depository institutions and credit unions, and NMLS data for non-depository insitutions, all matched with 2012 HMDA reporters.

significant way either the substance of the information required to be reported or the manner in which this information is collected or released to the public.

However, quarterly reporting by financial institutions that reported at least 75,000 transactions in the preceding calendar year may have a number of benefits to consumers. Currently, there is significant delay between the time that final action is taken on an application and the time this information about the application or loan is reported to the Bureau and the appropriate agencies under HMDA. This time delay ranges from 2 months if the date of final action occurs during December to 14 months if the date of final action occurs during January. The Bureau believes that timelier data would improve the ability of the Bureau and the appropriate agencies to identify current trends in mortgage markets, detect early warning signs of future housing finance crises, and determine, in much closer to ''real time,'' whether financial institutions are fulfilling their obligations to serve the housing needs of communities in which they are located. Timelier identification of risks to mortgage markets and troublesome trends by the Bureau and the appropriate agencies would allow for more effective interventions by public officials. Finally, although the Bureau currently does not plan for the FFIEC to release HMDA data to the public more frequently than annually, it believes that quarterly reporting may allow the Bureau and FFIEC to expedite the disclosure of annual HMDA data to the public because it would permit the processing of a significant volume of HMDA data throughout the year. Because, based on 2012 data, financial institutions that would be subject to quarterly reporting likely would report approximately 50 percent of all reported transactions, the benefits described above would relate to a substantial segment of the mortgage market.

Benefits to covered persons. The Bureau believes that the proposals to require that financial institutions make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register, to eliminate the option of paper reporting for financial institutions reporting 25 or fewer records, and to require quarterly reporting for financial institutions that reported at least 75,000 transactions in the preceding calendar year would provide little benefit to covered persons. However, the proposal to permit a financial institution to make its disclosure statements available to the public through a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site would free financial institutions from having to print and download their disclosure statements in order to provide them to requesters. Initial outreach efforts indicated that tier 3 financial institutions rarely receive requests for disclosure statements. However, some tier 3 financial institutions indicated that they nevertheless download and print a disclosure statement in preparation for requests. The Bureau has represented this cost as equivalent to receiving 1 request for a disclosure statement each year. The Bureau estimates that tier 2 and tier 1 financial institutions receive 3 and 15 requests for disclosure statements each year, respectively. Based on these estimated volumes, the Bureau estimates that this proposed change would reduce ongoing operational costs by approximately $15 per year for a representative tier 3 financial institution, approximately $40 per year for a representative tier 2 financial institution, and approximately $210 per year for a representative tier 1 financial institution. This translates into a market-level reduction in cost of approximately $161,000 to $278,000 per year. Using a 7 percent discount rate, the net present value of this savings over five years is $659,000 to $1,140,000.

Costs to consumers. The proposals to require that financial institutions make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register, to eliminate the option of paper reporting for financial institutions reporting 25 or fewer records, and to require quarterly reporting by financial institutions that reported at least 75,000 transactions in the preceding year would not impose any direct costs on consumers. Permitting financial institutions to make their disclosure statements available to the public through notices that clearly convey that the disclosure statements may be obtained on the FFIEC Web site would require consumers to obtain these disclosure statements online. Given the prevalence of internet access and the ease of using the FFIEC Web site, the Bureau also believes this proposal will impose minimal direct costs on consumers. Any potential costs to consumers of obtaining disclosure statements online are likely no greater than the costs of obtaining disclosure statements from the physical offices of financial institutions, or from a floppy disk or other electronic data storage medium that may be used with a personal computer, as contemplated in HMDA section 304(k)(1)(b).

However, consumers may bear some indirect costs of the proposed changes if financial institutions pass on some or all of their increased costs to consumers. Following microeconomic principles, the Bureau believes that financial institutions will pass on increased variable costs to future loan applicants, but absorb one-time costs and increased fixed costs if financial institutions are profit maximizers and the market is perfectly competitive. The Bureau defines variable costs as costs that depend on the number of applications received. Based on initial outreach efforts, five of the 18 operational tasks are variable cost tasks: Transcribing data, resolving reportability questions, transferring data to an HMS, geocoding, and researching questions. The Bureau believes that the four proposed changes discussed in this section would have either no, or only a minimal, effect on these variable cost tasks. The proposal to require that financial institutions make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register will not impact any operational step. Eliminating the option of paper reporting for financial institutions reporting 25 or fewer records may increase transcribing costs for financial institutions that qualify for this option and currently report HMDA data in paper form. However, the Bureau believes that the number of financial institutions that report in paper format is very low. Also, if the proposal to exclude from the definition of financial institution any institution that originated less than 25 covered loans, excluding open-end lines of credit, is adopted,[630] the number of financial institutions that would be eligible to submit their loan application register in paper format would be significantly reduced.[631] Finally, as part of its efforts to improve and modernize HMDA operations, the Bureau is considering various improvements to the HMDA data submission process that should reduce even further the need for institutions to compile and submit their HMDA data in paper format. Given these factors and the small loan application register size at issue (25 or

[630] *See* proposed § 1003.2(g).

[631] If proposed § 1003.2(g) is adopted and the Bureau continues to allow a financial institution that reports 25 or fewer entries on its loan application register to submit its register in paper format, only a financial institution that originated exactly 25 covered loans would be eligible to submit its register in paper format.

fewer records), the Bureau estimates that the impact of this cost is negligible. Permitting financial institutions to make their disclosure statements available to the public through a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site would impact the ''distributing disclosure report'' task, but none of the variable cost tasks. Finally, requiring quarterly reporting by financial institutions that reported at least 75,000 transactions in the preceding calendar year would affect annual edits and internal checks, checking post-submission edits, filing post-submission edits, internal audits, and external audits. None of these tasks are variable cost tasks and hence would not lead financial institutions to pass through some of the incremental costs to consumers in a perfectly competitive market with profit-maximizing financial institutions.

During the Small Business Review Panel process, some small entity representatives noted that they would attempt to pass on all increased compliance costs associated with the proposed rule, but that whether costs were passed on would depend upon the competiveness of the market in which they operate, especially for smaller financial institutions. In addition, some small entity representatives noted that they would attempt to pass on costs through higher fees on other products, would leave geographic or product markets, or would spend less time on customer service. To the extent that lenders are able to pass on a greater amount of these compliance costs, the costs to consumers would be slightly larger than the estimates described above. Nevertheless, the Bureau still believes that the potential costs that would be passed on to consumers are small.

Ongoing costs to covered persons. The Bureau believes that the proposals to require that financial institutions make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register and to permit financial institutions to make their disclosure statements available through a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site would not impact ongoing costs to covered persons. Leaving the modified loan application register in its current state would require financial institutions to redact additional proposed data fields, but the ongoing costs of doing so are negligible. Eliminating the option of paper reporting for financial institutions reporting 25 or fewer records may increase transcribing costs for financial institutions that currently maintain all HMDA data in paper form. However, as discussed above, the Bureau believes that the number of financial institutions that do this is very low, and given proposed changes to the institutional coverage criteria, potential improvements to the data submission process under consideration, and the small size of the loan application register at issue (25 or fewer records), the Bureau estimates that the impact of this cost is negligible.

Requiring quarterly reporting by financial institutions that reported at least 75,000 transactions in the preceding calendar year would increase ongoing costs to covered persons, as costs would increase for annual edits and internal checks, checking post-submission edits, filing post-submission edits, internal audits, and external audits. The Bureau estimates that this proposed change would increase ongoing operational costs by approximately $19,000 per year for a representative tier 3 financial institutions.[632]

Based on 2012 HMDA data, 28 financial institutions reported at least 75,000 transactions in the preceding calendar year, which is substantially larger than the average loan application register sizes of the representative tier 3 (50 records), tier 2 institutions (1,000 records), and tier 1 institutions (50,000) assumed by the Bureau. Therefore, the Bureau believes that it is reasonable to regard all of these institutions as tier 1 HMDA reporters. This yields an estimated market cost of $532,000 (=28*19000). Using a 7 percent discount rate, the net present value of this impact over five years would be approximately an increase in costs of $2,200,000.

One-time costs to covered persons. The Bureau believes that the proposals to require that financial institutions make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register, to permit financial institutions to make their disclosure statements available through a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site, and to require quarterly reporting by financial institutions that reported at least 75,000 transactions in the preceding calendar year would not impose any significant one-time costs on covered persons. Although leaving the modified loan application register in its current state would require financial institutions to develop the capability to redact additional data fields from the loan application register, the Bureau views the cost of doing so as insubstantial because financial institutions already possess the infrastructure necessary to redact information prior to publicly disclosing the modified loan application register. Reporting HMDA data on a quarterly basis would require repetition of processes currently in place, and eliminating the option of paper reporting would only impact ongoing transcription costs.

The proposal to permit financial institutions to make their disclosure statements available to the public through a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site would require a one-time cost to create the notice. However the Bureau believes that the one-time cost to create this notice would be negligible.

G. Potential Specific Impacts of the Proposed Rule

1. Depository Institutions and Credit Unions With $10 Billion or Less in Total Assets, as Described in § 1026

As discussed above, the proposed rule would exclude financial institutions with fewer than 25 originated covered loans, excluding open-end lines of credit; require reporting of home-equity lines of credit, home-equity loans, and reverse mortgages; exclude reporting of unsecured home improvement loans; modify current HMDA data points to address the Dodd-Frank Act amendments to HMDA and align the data points with industry data standards to the extent practicable; and add additional data points to implement the requirements of the Dodd-Frank Act and to fulfill the purposes of HMDA.

The Bureau believes that the benefits of these proposed rules to depository institutions and credit unions with $10 billion or less in total assets will be similar to the benefit to creditors as a whole, as discussed above. Regarding costs, other than as noted here, the Bureau also believes that the impact of the proposed rule on the depository institutions and credit unions with $10 billion or less in total assets will be similar to the impact for creditors as a whole. The primary difference in the impact on these institutions is likely to

[632] The Bureau also estimates that this proposed change would increase ongoing operational costs by approximately $800 and $5000 per year for representative tier 3 and 2 institutions, respectively, were these institutions required to report quarterly. However, since the Bureau believes that all the financial institutions subject to quarterly reporting under the proposal would be tier 1 institutions, the estimates for tier 3 and tier 2 institutions have been excluded.

come from differences in the level of complexity of operations, compliance systems and software of these institutions.

Based on Call Report data for December 2012, 13,998 of 14,110 depository institutions and credit unions had $10 billion or less in total assets. The 112 depository institutions and credit unions with over $10 billion in assets are most likely tier 1 institutions based on the Bureau's definition. The 28 institutions that reported at least 75,000 transactions in the preceding calendar year and would be required to report quarterly with the proposals and are assumed to be tier 1 institutions. Under these assumptions, the Bureau estimates that the market-level impact of the proposed rule on operational costs for depository institutions and credit unions with $10 billion or less in total assets would be a cost of between $6,400,000 and $10,500,000. Using a discount rate of 7 percent, the net present value of this cost over five years is between $26,200,000 and $42,800,000. Regarding one-time costs, the Bureau estimates that the market-level impact of the proposed rule for depository institutions and credit unions with $10 billion or less in total assets is between $186,400,000 and $1,700,000,000. Using a 7 percent discount rate and a five-year amortization window, the annualized one-time cost is $45,500,000 and $410,000,000.

2. Impact of the Proposed Provisions on Consumers in Rural Areas

The proposed provisions will not directly impact consumers in rural areas. However, as with all consumers, consumers in rural areas may bear some indirect costs of the proposal. This would occur if financial institutions serving rural areas are HMDA reporters and if these institutions pass on some or all of the cost increase to consumers.

Recent research suggests that financial institutions that primarily serve rural areas are generally not HMDA reporters.[633] The Housing Assistance Council (HAC) suggests that the asset and geographic coverage criteria disproportionately exempt small lenders operating in rural communities. For example, HAC uses 2009 Call Report data to show that approximately 700 FDIC-insured lending institutions had assets totaling less than the HMDA institutional coverage threshold and were headquartered in rural communities. These institutions, which would not be HMDA reporters, may represent one of the few sources of credit for many rural areas. Research by economists at the Federal Reserve Board also suggests that HMDA's coverage of rural areas is limited, especially areas further from MSAs.[634] If a large portion of the rural housing market is serviced by financial institutions that are not HMDA reporters, any indirect impact of the proposed changes on consumers in rural areas would be limited, as the proposed changes directly involve none of those financial institutions.

However, although some research suggests that HMDA currently does not cover a significant number of financial institutions serving the rural housing market, HMDA data do contain information for some covered loans involving properties in rural areas. These data can be used to estimate the number of HMDA reporters servicing rural areas, and the number of consumers in rural areas that might potentially be affected by the proposed changes to Regulation C. For this analysis, the Bureau uses non-MSA areas as a proxy for rural areas, with the understanding that portions of MSAs and non-MSAs may contain urban and rural territory and populations. In 2012, 5,525 HMDA reporters reported applications or purchased loans for property located in geographic areas outside of an MSA.[635] This count provides an upper bound of the estimate of the number of financial institutions that would be impacted by the proposed changes and that also might attempt to pass on these cost increases to consumers in rural areas. In total, these 5,525 financial institutions reported 1,925,937 applications or purchased loans for properties in non-MSA areas. This number provides an upper bound estimate of the number of consumers in rural areas that could be impacted indirectly by the proposed changes. In general, individual financial institutions report small numbers of covered loans from non-MSAs, as approximately 70 percent reported fewer than 100 covered loans from non-MSAs.

Following microeconomic principles, the Bureau believes that financial institutions will pass on increased variable costs to future mortgage applicants, but absorb one-time costs and increased fixed costs if financial institutions are profit maximizers and the market is perfectly competitive.[636] The Bureau defines variable costs as costs that depend on the number of applications received. Based on initial outreach efforts, the following five operational steps affect variable costs: Transcribing data, resolving reportability questions, transferring data to an HMS, geocoding, and researching questions. The primary impact of the proposed rule on these operational steps is an increase in time spent per task. Overall, the Bureau estimates that the impact of the proposed rule on variable costs per application is $13 for a representative tier 3 financial institution, $0.20 for a representative tier 2 financial institution, and $0.11 for a representative tier 1 financial institution.[637] The 5,525 financial institutions that serviced rural areas would attempt to pass these variable costs on to all future mortgage customers, including the estimated 2 million consumers from rural areas. Amortized over the life of the loan, this expense would represent a negligible increase in the cost of a mortgage loan. Therefore, the Bureau does not anticipate any material adverse effect on credit access in the long or short term even if these financial institutions pass on these costs to consumers.

During the Small Business Review Panel process, some small entity representatives noted that they would attempt to pass on all increased compliance costs associated with the proposed rule, but that this would depend upon the competiveness of the market in which they operate, especially for smaller financial institutions. In addition, some small entity representatives noted that they would attempt to pass on costs through higher fees on other products, exit geographic or product markets, or spend less time on customer service. To the extent that the market is less than perfectly competitive and the lenders are able to pass on a greater amount of these compliance costs, the costs to consumers would be slightly larger than the estimates described above. Nevertheless, the Bureau believes that the potential costs that would be passed on to consumers are small.

[633] Keith Wiley, Housing Assistance Council, *What Are We Missing? HMDA Asset-Excluded Filers,* (2011); Lance George and Keith Wiley, Housing Assistance Council, *Improving HMDA: A Need to Better Understand Rural Mortgage Markets,* (2010).

[634] Robert B. Avery, Kenneth P. Brevoort, and Glenn B. Canner, *Opportunities and Issues in Using HMDA Data,* 29 J. of Real Estate Research 352 (2007).

[635] These counts exclude preapproval requests that were denied or approved but not accepted, because geographic information is typically not available for these transactions.

[636] If markets are not perfectly competitive or financial institutions are not profit maximizers then what financial institutions pass on may differ. For example, they may attempt to pass on one-time costs and increases in fixed costs, or they may not be able to pass on variable costs.

[637] These cost estimates do not incorporate the impact of adding operational changes affecting geocoding, DES processing, and help sources.

Given the differences between rural and non-rural markets in structure, demand, supply, and competition level, consumers in rural areas may experience benefits and costs from the proposed rule that are different than those experienced by consumers in general. To the extent that the impacts of the proposal on creditors differ by type of creditor, this may affect the costs and benefits of the proposal on consumers in rural areas. The Bureau will further consider the impact of the proposed rule on consumers in rural areas. The Bureau therefore asks interested parties to provide data, research results, and other factual information on the impact of the proposed rule on consumers in rural areas. For example, this would include any evidence and supporting information indicating that access to credit would fall or the cost of credit would increase.

H. Additional Analysis Being Considered and Request for Information

The Bureau will further consider the benefits, costs and impacts of the proposed provisions and additional alternatives before finalizing the proposed rule. As noted above, there are a number of areas where additional information would allow the Bureau to better estimate the benefits, costs, and impacts of this proposed rule and more fully inform the rulemaking. The Bureau asks interested parties to provide comment or data on various aspects of the proposed rule, as detailed in the section-by-section analysis.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements.[638] These analyses must ''describe the impact of the proposed rule on small entities.'' [639] An IRFA or FRFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[640] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[641]

The Bureau has not certified that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. Accordingly, the Bureau convened and chaired a Small Business Review Panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) to consider the impact of the proposed rule on small entities that would be subject to that rule and to obtain feedback from representatives of such small entities. The Small Business Review Panel for this rulemaking is discussed below in part VII.A.

The Bureau is publishing an IRFA. Among other things, the IRFA estimates the number of small entities that will be subject to the proposed rule and describes the impact of that rule on those entities. The IRFA for this rulemaking is set forth below in part VII.B.

A. Small Business Review Panel

Under section 609(b) of the RFA, as amended by SBREFA and the Dodd-Frank Act, the Bureau seeks, prior to conducting the IRFA, information from representatives of small entities that may potentially be affected by its proposed rules to assess the potential impacts of that rule on such small entities.[642] Section 609(b) sets forth a series of procedural steps with regard to obtaining this information. The Bureau first notifies the Chief Counsel for Advocacy (Chief Counsel) of the SBA and provides the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the types of small entities that might be affected.[643] Not later than 15 days after receipt of the formal notification and other information described in section 609(b)(1) of the RFA, the Chief Counsel then identifies the small entity representatives, the individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule.[644] The Bureau convenes a Small Business Review Panel for such rule consisting wholly of full-time Federal employees of the office within the Bureau responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs (OIRA) within the OMB, and the Chief Counsel.[645] The Small Business Review Panel reviews any material the Bureau has prepared in connection with the SBREFA process and collects the advice and recommendations of each individual small entity representative identified by the Bureau after consultation with the Chief Counsel on issues related to sections 603(b)(3) through (b)(5) and 603(c) of the RFA.[646] Not later than 60 days after the date the Bureau convenes the Small Business Review Panel, the panel reports on the comments of the small entity representatives and its findings as to the issues on which the Small Business Review Panel consulted with the small entity representatives, and the report is made public as part of the rulemaking record.[647] Where appropriate, the Bureau modifies the proposed rule or the IRFA in light of the foregoing process.[648]

In December 2013, the Bureau provided the Chief Counsel with the formal notification and other information required under section 609(b)(1) of the RFA. To obtain feedback from small entity representatives to inform the Small Business Review Panel pursuant to sections 609(b)(2) and 609(b)(4) of the RFA, the Bureau, in consultation with the Chief Counsel, identified three categories of small entities that may be subject to the proposed rule for purposes of the IRFA: Commercial banks and savings institutions, credit unions, and mortgage companies (*i.e.,* nondepository mortgage lenders). Section 3 of the IRFA, in part VII.B.3, below, describes in greater detail the Bureau's analysis of the

[638] 5 U.S.C. 601 *et. seq.*

[639] 5 U.S.C. 603(a). For purposes of assessing the impacts of the proposed rule on small entities, ''small entities'' is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A ''small business'' is determined by application of Small Business Administration regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. 5 U.S.C. 601(3). A ''small organization'' is any ''not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' 5 U.S.C. 601(4). A ''small governmental jurisdiction'' is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5).

[640] 5 U.S.C. 605(b).

[641] 5 U.S.C. 609.

[642] 5 U.S.C. 609(b).

[643] 5 U.S.C. 609(b)(1).

[644] 5 U.S.C. 609(b)(2).

[645] 5 U.S.C. 609(b)(3).

[646] 5 U.S.C. 609(b)(4). As described in the IRFA in part VII.B, below, sections 603(b)(3) through (b)(5) and 603(c) of the RFA, respectively, require a description of and, where feasible, provision of an estimate of the number of small entities to which the proposed rule will apply; a description of the projected reporting, record keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; and a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. 5 U.S.C. 603(b)(3)–(5), 603(c).

[647] 5 U.S.C. 609(b)(5).

[648] 5 U.S.C. 609(b)(6).

number and types of entities that may be affected by the proposed rule. Having identified the categories of small entities that may be subject to the proposed rule for purposes of an IRFA, the Bureau then, in consultation with the Chief Counsel, selected 20 small entity representatives to participate in the SBREFA process. As discussed in chapter 7 of the SBREFA Final Report, described below, the small entity representatives selected by the Bureau in consultation with the Chief Counsel included representatives from each of the categories identified by the Bureau and comprised a diverse group of individuals with regard to geography and type of locality (*i.e.,* rural, urban, suburban, or metropolitan areas).

On February 27, 2014, the Bureau formally convened the Small Business Review Panel pursuant to section 609(b)(3) of the RFA. Afterwards, to collect the advice and recommendations of the small entity representatives under section 609(b)(4) of the RFA, the Small Business Review Panel held an outreach meeting/teleconference with the small entity representatives on March 6, 2014 (Panel Outreach Meeting). To help the small entity representatives prepare for the Panel Outreach Meeting beforehand, the Small Business Review Panel circulated briefing materials prepared in connection with section 609(b)(4) of the RFA that summarized the proposals under consideration at that time, posed discussion issues, and provided information about the SBREFA process generally.[649] All 20 small entity representatives participated in the outreach meeting either in person or by telephone. The Small Business Review Panel also provided the small entity representatives with an opportunity to submit written feedback until March 20, 2014. In response, the Small Business Review Panel received written feedback from 15 of the representatives.[650]

On April 24, 2014, the Director of the Bureau, Richard Cordray, signed the written SBREFA Final Report [651] submitted by the Small Business Review panel that includes the following: Background information on the proposals under consideration at the time; information on the types of small entities that would be subject to those proposals and on the small entity representatives who were selected to advise the Small Business Review Panel; a summary of the Small Business Review Panel's outreach to obtain the advice and recommendations of those small entity representatives; a discussion of the comments and recommendations of the small entity representatives; and a discussion of the Small Business Review Panel findings, focusing on the statutory elements required under section 603 of the RFA.[652]

In preparing this proposed rule and the IRFA, the Bureau has carefully considered the feedback from the small entity representatives participating in the SBREFA process and the findings and recommendations in the SBREFA Final Report. The section-by-section analysis of the proposed rule in part V, above, and the IRFA discuss this feedback and the specific findings and recommendations of the Small Business Review Panel, as applicable. The SBREFA process provided the Small Business Review Panel and the Bureau with an opportunity to identify and explore opportunities to minimize the burden of the rule on small entities while achieving the rule's purposes. It is important to note, however, that the Small Business Review Panel prepared the SBREFA Final Report at a preliminary stage of the proposal's development and that the SBREFA Final Report—in particular, the Small Business Review Panel's findings and recommendations—should be considered in that light. Also, any options identified in the SBREFA Final Report for reducing the proposed rule's regulatory impact on small entities were expressly subject to further consideration, analysis, and data collection by the Bureau to ensure that the options identified were practicable, enforceable, and consistent with HMDA, the Dodd-Frank Act, and their statutory purposes. The proposed rule and the IRFA reflect further consideration, analysis, and data collection by the Bureau.

B. Initial Regulatory Flexibility Analysis

Under RFA section 603(a), an IRFA ''shall describe the impact of the proposed rule on small entities.'' [653] Section 603(b) of the RFA sets forth the required elements of the IRFA. Section 603(b)(1) requires the IRFA to contain a description of the reasons why action by the agency is being considered.[654] Section 603(b)(2) requires a succinct statement of the objectives of, and the legal basis for, the proposed rule.[655] The IRFA further must contain a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.[656] Section 603(b)(4) requires a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the types of professional skills necessary for the preparation of the report or record.[657] In addition, the Bureau must identify, to the extent practicable, all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule.[658] Furthermore, the Bureau must describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.[659] Finally, as amended by the Dodd-Frank Act, RFA section 603(d) requires that the IRFA include a description of any projected increase in the cost of credit for small entities, a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities (if such an increase in the cost of credit is projected), and a description of the advice and recommendations of representatives of small entities relating to the cost of credit issues.[660]

1. Description of the Reasons Why Agency Action Is Being Considered

As discussed in the background, part II above, for more than 30 years HMDA has required financial institutions to collect, report to regulators, and disclose to the public data about applications and originations of home mortgage loans. HMDA was intended to provide the public with information that can be used to help determine whether financial institutions are serving the housing needs of their communities, to assist public officials in distributing public-sector investment so as to attract private investment, and to assist in identifying possible discriminatory

[649] The Bureau posted these materials on its Web site and invited the public to email remarks on the materials. *See* U.S. Consumer Fin. Prot. Bureau, *Small Business Review Panel for Home Mortgage Disclosure Act Rulemaking: Outline of Proposals Under Consideration and Alternative Considered* (Feb. 7, 2014) (Outline of Proposals), *available at http://files.consumerfinance.gov/f/201402_cfpb_hmda_outline-of-proposals.pdf.*

[650] This written feedback is attached as appendix A to the Small Business Review Panel Final Report discussed below.

[651] *Final Report of the Small Business Review Panel on the CFPB's Proposals Under Consideration for Home Mortgage Disclosure Act Rulemaking,* dated April 28, 2014. As discussed above, this report is available on the Bureau's Web site.

[652] 5 U.S.C. 609(b)(5).

[653] 5 U.S.C. 603(a).

[654] 5 U.S.C. 603(b)(1).

[655] 5 U.S.C. 603(b)(2).

[656] 5 U.S.C. 603(b)(3).

[657] 5 U.S.C. 603(b)(4).

[658] 5 U.S.C. 603(b)(5).

[659] 5 U.S.C. 603(b)(6).

[660] 5 U.S.C. 603(d)(1); Public Law 111–203, section 1100G(d)(1).

lending patterns and enforcing antidiscrimination statutes. HMDA data represent the primary data source for regulators, industry, advocates, researchers, and economists studying and analyzing trends in the mortgage market for a variety of purposes, including general market and economic monitoring, as well as assessing housing needs, public investment, and possible discrimination. Historically, HMDA has been implemented by the Board through Regulation C, 12 CFR part 203. In 2011, the Bureau established a new Regulation C, 12 CFR part 1003, substantially duplicating the Board's Regulation C, making only non-substantive, technical, formatting, and stylistic changes. Congress has periodically modified the law, and the Board routinely updated Regulation C, in order to ensure that the data continued to fulfill HMDA's purposes.

Users of HMDA data, however, have consistently advocated for expansion of HMDA data to keep pace with the mortgage market's evolution, particularly during the market's rapid growth into nontraditional lending products and its subsequent collapse in 2008. In 2010, Congress responded to the mortgage crisis in the Dodd-Frank Act by enacting changes to HMDA as well as directing reforms to the mortgage market and the broader financial system. In addition to transferring rulemaking authority for HMDA from the Board to the Bureau, section 1094 of the Dodd-Frank Act, among other things, directed the Bureau to implement changes requiring the collection and reporting of several new data points, and authorized the Bureau to require financial institutions to collect and report such other information as the Bureau may require.

The proposed rule, therefore, both follows on the prior efforts of the Board to address shortcomings in HMDA's reporting requirements, and effectuates Congress's specific mandate to the Bureau to implement changes regarding the collection and reporting of HMDA data. For a further description of the reasons why agency action is being considered, see the background discussion for the proposed rule in part II, above.

2. Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

This rulemaking has multiple objectives. First, the proposed rule is designed to improve the usefulness of HMDA data for determining whether institutions are serving the housing needs of their communities, identifying potentially discriminatory lending patterns and enforcing antidiscrimination laws, and helping public officials target public investment so as to attract private investment to areas where it is needed. To achieve these objectives, the proposed rule requires financial institutions to report additional information regarding originations and applications of mortgage loans, and makes several modifications to the institutional and transactional coverage of Regulation C. To improve the quality and timeliness of HMDA data, the Bureau is also proposing to require financial institutions with large numbers of reported transactions to submit their HMDA data on a quarterly, rather than an annual, basis.

The Bureau also intends for the proposal to reduce unnecessary burden on financial institutions. To this end, the Bureau is proposing to adjust Regulation C's institutional coverage test to simplify the institutional coverage requirements by adopting, for all financial institutions, a uniform loan-volume threshold of 25 loans. The proposed rule would also increase the clarity of the regulation by, among other things, modifying the definitions of certain ambiguous terms, adopting certain new definitions, and consolidating the list of exempt institutions and excluded transactions in the same section. Under the proposed regulation, financial institutions would make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register, and financial institutions would be permitted to direct members of the public to a publicly available Web site to obtain their disclosure statements. Finally, the proposed rule would modernize and streamline the manner in which financial institutions collect and report HMDA data. Among other things, the Bureau is proposing to align the data requirements with the widely-used MISMO data standards to the extent practicable, and is separately considering various improvements to the HMDA data submission process, such as moving the HMDA data entry software to the Web and restructuring the geocoding process.

As described above, the Dodd-Frank Act transferred to the Bureau the ''consumer financial protection functions'' previously vested in certain other Federal agencies, and authorized the Bureau to prescribe rules necessary or appropriate to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof, including HMDA. As amended by the Dodd-Frank Act, HMDA section 305(a) broadly authorizes the Bureau to prescribe such regulations as may be necessary to carry out HMDA's purposes. These regulations can include ''classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary and proper to effectuate the purposes of [HMDA], and prevent circumvention or evasion thereof, or to facilitate compliance therewith.'' HMDA section 304 requires itemization of specified categories of information, including information about borrowers and loan features and pricing, as well as ''such other information as the Bureau may require.'' Finally, HMDA also grants the Bureau authority over the formats required for compilation and public disclosure of HMDA data, the format required for disclosure to the Bureau or other Federal agencies, and the improvement of methods of matching addresses and census tracts to facilitate HMDA compliance. The legal basis for the proposed rule is discussed in detail in the legal authority analysis in part IV and in the section-by-section analysis in part V, above.

3. Description and, Where Feasible, Provision of an Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

The following table provides the Bureau's estimate of the number and types of entities that may be affected by the proposals under consideration:

Table 1:
Classes of Small Entities Subject to Requirements of Proposal

Category	NAICS	Small Entity Threshold	Total Entities	Small Entities	Entities engaged in dwelling-secured mortgage transactions	Small entities engaged in dwelling-secured mortgage transactions	All HMDA Reporters (7406)	Small Entities HMDA Reporters
Commercial banks & savings institutions[1]	522110, 522120	$500M assets	7,150	5,816	6,977	5,677	4,368	3,131
Credit Unions[2]	522130	$500M assets	6,960	6,550	4,385	3,976	2,005	1,602
Mortgage brokers and mortgage companies (Non-bank lenders)[3]	522310, 522292, 522298	$7M revenues $35.5M revenues	14,566	14,328	8,351	8,260	1,033	791

[1] Asset size is obtained from December 2012 Call Report data as compiled by SNL Financial. Savings institutions include thrifts, savings banks, mutual banks, and similar institutions. Estimated number of lenders originating any mortgage transactions includes all open- and closed-end loans secured by 1-4 family residential properties, and all loans secured by multifamily residential properties from Schedule RC-C of the Call Report. Call report data aggregates lenders at the HMDA reporter level to the parent company, so these counts slightly understate the potential number of HMDA reporters.
[2] Asset size and engagement in closed-end mortgage loans obtained from December 2012 National Credit Union Administration Call Report. Count of credit unions engaged in closed-end mortgage transactions includes total first mortgage and other real estate loans, year-to-date from Section 2 of the Call Report. Call report data aggregates lenders at the HMDA reporter level to the parent company, so these counts slightly understate the potential number of HMDA reporters.
[3] Total number of entities and small entities estimated based on HMDA data and the Nationwide Mortgage Licensing System and Registry Mortgage Call Report (MCR) data for 2012. Difficulties merging HMDA and NMLSR data affected the accuracy of the count estimates. To provide reasonable estimates without overstating the level of accuracy supported by the available data, the Bureau rounds all counts to the nearest 500.

4. Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirement and the Type of Professional Skills Necessary for the Preparation of the Report

Reporting Requirements. HMDA requires financial institutions to report certain information related to covered loans. Financial institutions are required to report HMDA data to the Bureau or to the appropriate Federal agency.[661] All reportable transactions must be recorded within 30 calendar days[662] after the end of the calendar quarter in which final action is taken on a loan application register, and a modified version of the loan application register must be disclosed to the public upon request.[663] Under the proposed regulation, financial institutions would make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register. Additionally, financial institutions that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, in the preceding calendar year will be required to report HMDA data quarterly to the Bureau or to the appropriate Federal agency. Financial institutions must also make their disclosure statements, which are prepared by the FFIEC from data submitted by the institutions, available to the public upon request.[664]

The proposed rule would modify current reporting requirements and impose new reporting requirements by requiring financial institutions to report additional information required by the Dodd-Frank Act, as well as certain information determined by the Bureau to be necessary and proper to effectuate HMDA's purposes. The proposed rule also modifies the scope of the institutional and transactional coverage thresholds. The Bureau is also proposing to allow a financial institution to make its disclosure statement available to the public by making available at its home office and each branch office located in an MSA and MD a notice that clearly conveys that the institution's disclosure statement may be obtained on the FFIEC Web site and that includes the Web site address. The section-by-section analysis of the proposed rule in part V, above, discusses the additional required data

[661] 12 U.S.C. 2803(h)(1).
[662] 12 CFR 1003.4(a).
[663] 12 U.S.C. 2803(j).
[664] 12 U.S.C. 2803(k); 12 CFR 1003.5(b).

points and the scope of the proposed rule in greater detail. More information is also available in section 3 of the SBREFA Final Report.[665]

Recordkeeping Requirements. HMDA currently requires financial institutions to compile and maintain information related to certain transactions involving covered loans. HMDA section 304(c) requires that information required to be compiled and made available under HMDA section 304, other than loan application register information required under section 304(j), must be maintained and made available for a period of five years. HMDA section 304(j)(6) requires that loan application register information for any year shall be maintained and made available, upon request, for three years. Regulation C requires that all reportable transactions be recorded within thirty calendar days after the end of the calendar quarter in which final action is taken on a loan application register.[666] Regulation C further specifies that a financial institution shall retain a copy of its loan application register for its records for at least three years.[667] The proposed rule would not modify the recordkeeping period for covered financial institutions. The proposed rule would, however, potentially require additional recordkeeping in that it would require financial institutions to maintain additional information as a result of the expanded reporting requirements described above. Furthermore, the proposal would allow financial institutions to provide disclosure statements by directing members of the public to the FFIEC Web site rather than requiring the institutions to download or print the statements from the Web site so as to have them available for members of the public that make a request.

Benefits to small entities. HMDA is a data reporting statute, so all provisions of the proposed rule affect reporting requirements. Overall, the proposed rule has several potential benefits for small entities. First, the proposed revision to the institutional coverage criteria, which imposes a loan volume threshold of 25 loans, excluding open-end lines of credit, applicable to all financial institutions, would benefit depository institutions that are not significantly involved in originating dwelling-secured loans. The Bureau expects that most of these depository institutions are small entities. These depository institutions would no longer have to report under HMDA and would no longer have to incur current operational costs, or the increase in operational cost and the one-time costs, created by the proposed rule.

Second, the proposed revisions to the transactional coverage criteria would eliminate reporting of unsecured home improvement loans. The Bureau believes most small entities will be comparable to the representative tier 3 institution based on the Bureau's assumptions discussed extensively in part VI.E of this supplementary information, and that the volume of applications for unsecured home improvement loans for these financial institutions is small. Therefore, the benefit from this change will be small for most small entities. However, some small entities may receive larger volumes of applications for unsecured home improvement products, and the benefit will be larger for these financial institutions.

Third, the proposed revisions requiring mandatory reporting of all home-equity lines of credit, home-equity loans, reverse mortgages, and preapproval requests that have been approved but not accepted, combined with the additional data points being proposed, will improve the prioritization process that regulators and enforcement agencies use to identify institutions with higher fair lending risk. During prioritization analyses, the additional transactions and data points will allow for improved segmentation, so that applications are compared to other applications for similar products. In addition, the data points will add to the legitimate factors used in underwriting and pricing that are currently lacking in the HMDA data, helping regulators and government enforcement agencies better understand disparities in outcomes. These improvements will reduce false positives that occur when inadequate information causes lenders with low fair lending risk to be initially misidentified as having high-risk. The additional information on these products and data points will explain some of these false positives, so that examination resources can be used more efficiently and lenders with low fair lending risk receive a reduced level of regulatory scrutiny. For small entities currently receiving regulatory oversight, this could greatly reduce the burden from fair lending examinations and enforcement actions.

Fourth, incorporating into the proposed rule alignment of current HMDA data fields with industry data standards provides a benefit to small entities. The Bureau believes that the burden associated with Regulation C compliance and data submission can be reduced by aligning to the extent practicable the requirements of Regulation C to existing industry standards for collecting and transmitting data on mortgage loans and applications. The Bureau believes that promoting consistent data standards for both industry and regulatory use has benefits for market efficiency, market understanding, and market oversight. The efficiencies achieved by aligning HMDA data with widely used industry data standards should grow over time. Specific to small entities, outreach efforts have determined that aligning HMDA with industry data standards will reduce costs for training and researching questions.

Finally, the proposed additional fields will improve the usefulness of HMDA data for analyzing mortgage markets by the regulators and the public. For instance, data points such as non-amortizing features, introductory interest rate, and prepayment penalty that are commonly related to higher risk lending will provide a better understanding of the types of products and features consumers are receiving. This will allow for improved monitoring of trends in mortgage markets and help identify problems that could potentially harm consumers and society overall. Lowering the likelihood of future financial crises benefits all financial institutions, including small entities.

Costs to small entities. The proposed revision to the coverage criteria raises the reporting threshold for depository institutions from 1 to 25 originations and lowers the reporting thresholds for nondepository institutions from 100 to 25 originations. The Bureau expects most of the affected nondepository institutions to be small entities. The additional nondepository institutions that would now be required to report under HMDA would incur one-time start-up costs to develop the necessary reporting infrastructure, as well as the ongoing operational costs to report.

The proposed revisions to transaction coverage would make reporting of open-end lines of credit mandatory, rather than optional; require reporting of all home-equity loans, not just those to be used for home purchase, refinancing, or home improvement; and require reporting of all reverse mortgages. These additional reporting requirements would increase operational costs for small entities as costs increase to transcribe data, resolve reportability questions, transfer data to HMS, and research questions.

[665] *Final Report of the Small Business Review Panel on the CFPB's Proposals Under Consideration for Home Mortgage Disclosure Act Rulemaking,* dated April 28, 2014. As discussed above, this report is available on the Bureau's Web site.

[666] 12 CFR 1003.4(a).

[667] 12 CFR 1003.5(a).

The proposed rule adds additional data points identified by the Dodd-Frank Act and that the Bureau believes are necessary to close information gaps. As part of this proposal, the Bureau is aligning all current and proposed data points to industry data standards to the extent practicable. The additional data points will increase ongoing operational costs, and impose one-time costs as small entities modify reporting infrastructure to incorporate additional fields. The transition to industry data standards would offset this cost slightly through reduced costs of researching questions and training.

Estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for the preparation of the report or record.

The following table conveys the classes of small entities affected:

Table 2:
Classes of Small Entities Subject to Requirements of Proposal

Category	NAICS	Small Entity Threshold	Total Entities	Small Entities	Entities engaged in dwelling-secured mortgage transactions	Small entities engaged in dwelling-secured mortgage transactions	All HMDA Reporters (7406)	Small Entities HMDA Reporters
Commercial banks & savings institutions[1]	522110, 522120	$500M assets	7,150	5,816	6,977	5,677	4,368	3,131
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Mortgage brokers and mortgage companies (Non-bank lenders)[3]	522310, 522292, 522298	$7M revenues $35.5M revenues	14,566	14,328	8,351	8,260	1,033	791

[1] Asset size is obtained from December 2012 Call Report data as compiled by SNL Financial. Savings institutions include thrifts, savings banks, mutual banks, and similar institutions. Estimated number of lenders originating any mortgage transactions includes all open- and closed-end loans secured by 1-4 family residential properties, and all loans secured by multifamily residential properties from Schedule RC-C of the Call Report. Call report data aggregates lenders at the HMDA reporter level to the parent company, so these counts slightly understate the potential number of HMDA reporters.

[2] Asset size and engagement in closed-end mortgage loans obtained from December 2012 National Credit Union Administration Call Report. Count of credit unions engaged in closed-end mortgage transactions includes total first mortgage and other real estate loans, year-to-date from Section 2 of the Call Report. Call report data aggregates lenders at the HMDA reporter level to the parent company, so these counts slightly understate the potential number of HMDA reporters.

[3] Total number of entities and small entities estimated based on HMDA data and the Nationwide Mortgage Licensing System and Registry Mortgage Call Report (MCR) data for 2012. Difficulties merging HMDA and NMLSR data affected the accuracy of the count estimates. To provide reasonable estimates without overstating the level of accuracy supported by the available data, the Bureau rounds all counts to the nearest 500.

Type of professional skills required. Section 603(b)(4) of the RFA also requires an estimate of the type of professional skills necessary for the preparation of the reports or records. The recordkeeping and compliance requirements of the proposed rule that would affect small entities are summarized above.

Based on outreach with financial institutions, vendors, and governmental agency representatives, the Bureau classified the operational activities that financial institutions currently use for HMDA data collection and reporting into 18 operational ''tasks'' which can be further grouped into four ''primary tasks.'' These are:

1. Data collection: Transcribing data, resolving reportability questions, and transferring data to an HMS.

2. Reporting and resubmission: Geocoding, standard annual edit and internal checks, researching questions, resolving question responses, checking post-submission edits, filing post-submission documents, creating public loan application register, distributing public loan application register, distributing disclosure report, and using vendor HMS software.

3. Compliance and internal audits: Training, internal audits, and external audits.

4. HMDA-related exams: Exam preparation and exam assistance.

All these tasks are related to the preparation of reports or records and most of them are performed by compliance personnel in the compliance department of financial institutions. For some financial

institutions, however, the data intake and transcribing stage could involve loan officers or processors whose primary function is to evaluate or process loan applications. For example, the loan officers would take in government monitoring information from the applicants and input that information into the reporting system. However, the Bureau believes that such roles generally do not require any additional professional skills related to recordkeeping or other compliance requirements of this proposed rule that are not otherwise required during the ordinary course of business for small entities.

The type of professional skills required for compliance varies depending on the particular task involved. For example, data transcribing requires data entry skills. Transferring data to an HMS and using vendor HMS software requires knowledge of computer systems and the ability to use them. Researching and resolving reportability questions requires a more complex understanding of the regulatory requirements and the details of the relevant line of business. Geocoding requires skills in using the geocoding software, web systems, or, in cases where geocoding is difficult, knowledge of the local area in which the property is located. Standard annual editing, internal checks, and post-submission editing require knowledge of the relevant data systems, data formats, and HMDA regulatory requirements in addition to skills in quality control and assurance. Filing post-submission documents, creating public loan application registers, and distributing public loan application registers and disclosure reports requires skills in information creation, dissemination, and communication. Training, internal audits, and external audits requires communications skills, educational skills, and regulatory knowledge. HMDA-related exam preparation and exam assistance involve knowledge of regulatory requirements, the relevant line of business, and the relevant data systems.

The Standard Occupational Classification (SOC) code has compliance officers listed under code 13–1041. The Bureau believes that most of the skills required for preparation of the reports or records related to this proposal are the skills required for job functions performed in this occupation. However, the Bureau recognizes that under this general occupational code there is a high level of heterogeneity in the type of skills required as well as the corresponding labor costs incurred by the financial institutions performing these functions.

During the SBREFA process, some small entity representatives noted that due to the small size of their institutions, they do not have separate compliance departments exclusively dedicated to HMDA compliance. Their HMDA compliance personnel are often engaged in other corporate compliance functions. To the extent that the compliance personnel of a small entity are divided between HMDA compliance and other functions, the skills required for those personnel may differ from the skills required for fully-dedicated HMDA compliance personnel. For instance, some small entity representatives noted that high-level corporate officers such as CEOs and senior vice presidents could be directly involved in some HMDA tasks. The Bureau seeks comment regarding the skills required for the preparation of the reports or records related to this proposed rule.

Due to the proposed changes, the Bureau acknowledges the possibility that certain aspects of the proposed rule may require some small entities to hire additional compliance staff. The Bureau has no evidence that such additional staff will possess a qualitatively different set of professional skills than small entity staff employed currently for HMDA purposes. It is possible, however, that compliance with the proposed rule may emphasize certain skills. For example, additional data points may increase demand for skills involved in researching questions, standard annual editing, and post-submission editing. On the other hand, the Bureau is separately considering operational enhancements and modifications to alleviate some of the compliance burden. For example, the Bureau is considering working to consolidate the outlets for assistance, providing guidance support similar to the guidance provided for Title XIV rules; improving points of contact processes for help inquiries; modifying the types of edits and when edits are approved; exploring opportunities to improve the current DES; and considering approaches to reduce geocoding burdens. Such enhancements may also change the relative composition of HMDA compliance personnel and the skills involved in recording and reporting data. Nevertheless, the Bureau believes that compliance would still involve the general set of skills identified above.

The recordkeeping and reporting requirements associated with this proposal would also involve skills for information technology system development, integration, and maintenance. Financial institutions often use the HMS for HMDA purpose. HMS could be developed by the institution internally or purchased from a third-party vendor. Under the proposed rule, the Bureau anticipates that most of these systems would need substantial upgrades to comply with the proposed requirements. It is possible that other systems used by financial institutions, such as loan origination systems, might also need upgrades to be compatible with the upgraded HMS. The professional skills required for this one-time upgrade would be related to software development, testing, system engineering, information technology project management, budgeting and operation.

Based on feedback from the small entity representatives, many small business HMDA reporters rely on FFIEC DES tools and do not use a dedicated HMS. The Bureau is separately considering upgrades to the HMDA DES, such as moving DES to the web, which would allow financial institutions to use the software from multiple terminals in different branches and might reduce the required information technology implementation cost for small financial institutions that choose to employ this new web-based DES.

5. Identification, to the Extent Practicable, of All Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

The proposed rule contains requirements related to the disclosure of mortgage loan information by certain financial institutions. The Bureau has identified certain other Federal rules that relate in some fashion to these areas and has considered the extent to which they may duplicate, overlap, or conflict with this proposal.[668] Each of these is discussed below.

The Community Reinvestment Act (CRA), implemented by Office of Comptroller of the Currency, Board, and Federal Deposit Insurance Corporation regulations requires some financial institutions to collect, maintain, and report certain data about small business, farm, and consumer lending to ensure they are serving their communities. HMDA data are frequently used in CRA exams as part of evaluating home mortgage lending under the CRA

[668] Rules are duplicative or overlapping if they are based on the same or similar reasons for the regulation, the same or similar regulatory goals, and if they regulate the same classes of industry. Rules are conflicting when they impose two conflicting regulatory requirements on the same classes of industry.

lending test, and many CRA definitions and concepts are aligned with HMDA. The Bureau intends to work with CRA regulatory agencies to ensure that HMDA and the CRA do not conflict and that HMDA data can continue to be used as part of the CRA compliance process.

The Equal Credit Opportunity Act (ECOA), implemented by the Bureau's Regulation B (12 CFR part 1002), among other things, prohibits creditors from discriminating in credit transactions and requires creditors to notify applicants of reasons for denial and provide copies of appraisals for certain home-secured loans. Regulation B requires creditors to collect race, ethnicity, sex, marital status, and age of applicants for some home purchase loans and refinancings and to maintain that information for 25 months for purposes of monitoring compliance with antidiscrimination laws. One of HMDA's purposes is to provide data that can be used to assist in enforcing antidiscrimination statutes, which include ECOA.

The Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA), implemented by the Bureau's Regulation Z (12 CFR part 1026) and Regulation X (12 CFR part 1024), provide protections to consumers who apply for and receive mortgage loans. These protections include disclosures and restrictions on certain types of transactions. The Bureau recently issued a final rule on integrated mortgage disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z). The Bureau has considered the definitions, requirements, and purposes of TILA and RESPA as it developed its proposals under Regulation C.

Proposed Regulation AB II (17 CFR part 229, subpart 229.1100) from the Securities and Exchange Commission (SEC) would require private issuers of asset-backed securities, including mortgage-backed securities, to disclose certain asset-level information.

The Fair Housing Home Loan Data System (12 CFR part 27), promulgated by the OCC, provides for a data collection system for monitoring national bank compliance with the Fair Housing Act and ECOA. Under the regulations governing the Fair Housing Loan Data System, financial institutions generally maintain these data in a format similar to that currently prescribed under Regulation C, except that financial institutions are required to report the reasons for denial on the loan application register.[669] Under section 1003.4(a)(16) of the proposed rule, financial institutions would report the reasons for denial of a loan application.

The Bureau requests comment to identify any additional such Federal rules that impose duplicative, overlapping, or conflicting requirements on servicers and potential changes to the proposed rules in light of duplicative, overlapping, or conflicting requirements.

6. Description of Any Significant Alternatives to the Proposed Rule Which Accomplish the Stated Objectives of Applicable Statutes and Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

The small entity representatives generally were receptive to the Bureau's proposals to modernize and streamline the HMDA data collection and reporting processes, but expressed some concerns about the proposals under consideration to add new data points to the HMDA reporting requirements. Where the small entity representatives expressed concern about the costs of complying with a proposed provision, the Bureau considered alternatives that might impose lower costs on small entities. One component of this consideration was to ensure that any alternative would accomplish the stated objectives of HMDA.

Institutional coverage threshold. As described above, Regulation C's institutional coverage is determined by complicated tests based on assets, loan volume, geographic location, and whether the financial institution makes loans that are federally related. The institutional coverage tests differ depending on whether the financial institution is a depository institution or nondepository institution. The proposed regulation would adopt a uniform 25-loan volume threshold for both depository and nondepository institutions.

The uniform standard promotes simplicity and clarity, an objective of the proposal, and was generally favored by the small entity representatives. Many small entity representatives suggested a higher coverage threshold, with recommendations ranging from 100 to 500 loans. The Bureau understands that some burden reduction may result from a threshold higher than 25 loans. However, the Bureau was concerned that a higher threshold would result in the elimination of data that are important in fulfilling the purposes of HMDA. Therefore, the Bureau is proposing a threshold of 25 loans.

Disclosure and reporting requirements. As described above, Regulation C currently requires that a financial institution must make its loan application register available to the public after removing three fields to protect applicant and borrower privacy: The application or loan number, the date that the application was received, and the date action was taken. An institution must make this ''modified loan application register'' available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 calendar days for a request received after March 1.

The Bureau is seeking comment on whether it should eliminate the requirement that the modified loan application register be made available to the public by smaller institutions. During the Small Business Review Panel process, the Bureau heard from small entity representatives that they rarely, if ever, receive requests for their modified loan application registers. The Small Business Review Panel recommended that the Bureau consider whether there is a continued need for small institutions to make their modified loan application registers available. Accordingly, the Bureau is soliciting comment on whether institutions should be excluded from the obligation to make their modified loan application registers available to the public, and, if so, which institutions should be excluded.

7. Discussion of Impact on Cost of Credit for Small Entities

Section 603(d) of the RFA requires the Bureau to consult with small entities regarding the potential impact of the proposed rule on the cost of credit for small entities and related matters.[670] To satisfy these statutory requirements, the Bureau provided notification to the Chief Counsel for Advocacy of the SBA in December 2013 that the Bureau would collect the advice and recommendations of the same small entity representatives identified in consultation with the Chief Counsel for Advocacy of the SBA through the Small Business Review Panel outreach concerning any projected impact of the proposed rule on the cost of credit for small entities as well as any significant alternatives to the proposed rule which

[669] *See* 12 CFR 128.6 (requiring certain financial institutions to report denial reasons to OCC for nondiscriminatory lending purposes. Certain financial institutions supervised by the FDIC are also required to report denial reasons under 12 CFR 390.147.

[670] 5 U.S.C. 603(d).

accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities.[671] The Bureau sought to collect the advice and recommendations of the small entity representatives during the Panel Outreach Meeting regarding these issues because, as small financial service providers, the small entity representatives could provide valuable input on any such impact related to the proposed rule.[672]

Following microeconomic principles, the Bureau believes that financial institutions will pass on increased variable costs to future mortgage applicants, but absorb one-time costs and increased fixed costs if financial institutions are profit maximizers and the market is perfectly competitive. Overall, the Bureau estimates that the impact of the proposed rule on variable costs per application is approximately $13 for a representative tier 3 financial institution, $0.20 for a representative tier 2 financial institution, and $0.11 for a representative tier 1 financial institution.

At the time the Bureau circulated the Small Business Review Panel outreach materials to the small entity representatives in advance of the Panel Outreach Meeting, it believed that the proposals under consideration would result in a minimal increase in the cost of business credit for small entities. Although the proposals would apply primarily to mortgage loans obtained by consumers for personal, family, or household purposes, the proposals under consideration would also cover certain dwelling-secured loans used for business purposes.

At the Small Business Review Panel Outreach Meeting, the Bureau asked the small entity representatives a series of questions regarding the cost of business credit.[673] These questions were focused on determining which proposals, if any, might impact the cost of credit for small entities, and whether feasible alternatives existed that would minimize the impact on small entities while accomplishing the statutory objectives addressed by the proposed rule. Specifically, the Bureau asked the small entity representatives whether they extended consumer mortgage loans used secondarily to finance small businesses. For nondepository institutions, the Bureau asked whether they had taken out a consumer mortgage loan that was also used secondarily to finance a small business.

The small entity representatives had few comments on the impact on the cost of business credit. Not all of the small entity representatives made loans to small businesses. One credit union small entity representatives, however, noted that many of its home-equity loans are used by individuals to fund a business. Two bank small entity representatives stated that a high percentage of their loans are small business or commercial loans where homes are typically used as additional collateral. These two small entity representatives explained that, because competition for loans currently is strong, they have to absorb extra costs. One of these small entity representatives also stated that so far it has improved efficiency to cut costs and has not imposed a regulatory compliance fee or marketed its data, as have other financial institutions, to offset compliance costs. A few small entity representatives noted that they would likely have to pass additional costs on to business customers. A third bank small entity representative stated that it charges a loan documentation fee to its commercial clients, but because borrowers are fee-sensitive, the financial institution could lose business with additional fees. When asked, the small entity representatives did not identify significant alternatives to any of the proposals under consideration that might minimize the impact on the cost of credit for small entities while accomplishing the statutory objectives addressed by the proposals under consideration.

Based on the feedback obtained from small entity representatives at the Panel Outreach Meeting, the Bureau currently anticipates that the proposed rule will result in a minimal increase in the cost of credit for small business entities. To further evaluate this question, the Bureau solicits comment on whether the proposed rule will have any impact on the cost of credit for small entities.

VIII. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),[674] Federal agencies are generally required to seek approval from the Office of Management and Budget (OMB) for information collection requirements prior to implementation. Further, the Bureau may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number. The information collection requirements contained in Regulation C are currently approved by OMB under OMB control number 3170–0008.

As part of its continuing effort to reduce paperwork and respondent burden, the Bureau conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on the revised information collection requirements in accordance with the PRA.[675] This helps ensure that the public understands the Bureau's requirements or instructions, that respondents can provide the requested data in the desired format, that reporting burden (time and financial resources) is minimized, that collection instruments are clearly understood, and that the Bureau can properly assess the impact of collection requirements on respondents.

As described below, the proposal would amend the information collection requirements contained in Regulation C[676] and currently approved under OMB control number 3170–0008. The revised information collection requirements are contained in sections 1003.4 and 1003.5 of the prosed rule. The Bureau's information collection requirements contained in this proposal, and identified as such, will be submitted to OMB for review under section 3507(d) of the PRA on or before publication of this proposal in the **Federal Register**.

The title of this information collection is Home Mortgage Disclosure (Regulation C). The frequency of response is annually, quarterly, and on-occasion. The Bureau's regulation would require covered financial institutions that meet certain thresholds to maintain data about originations and purchases of mortgage loans, as well as mortgage loan applications that do not result in originations, to update the information quarterly, and to report the information annually or quarterly. Financial institutions must also make certain information available to the public upon request.

The information collection requirements in this proposed rule would be mandatory.[677] Certain of data fields are redacted before they are made

[671] *See* 5 U.S.C. 603(d)(2). The Bureau provided this notification as part of the notification and other information provided to the Chief Counsel for Advocacy of the SBA with respect to the Small Business Review Panel outreach pursuant to RFA section 609(b)(1).

[672] *See* 5 U.S.C. 603(d)(2)(B).

[673] *See* Small Business Review Panel Report at 35.

[674] 44 U.S.C. 3501 *et seq.*

[675] 44 U.S.C. 3506(c)(2)(A).

[676] 12 CFR 1003.

[677] *See* 12 U.S.C. 2801 *et seq.*

available to the public, as required by the statute and regulation. The non-redacted data are made publicly available and are not considered confidential. The rest of the data, including information that might identify an individual borrower or applicant, such as loan number, date the application was received, and the date the application was taken, is considered confidential under the Bureau's confidentiality regulations, 12 CFR part 1070 *et seq.,* and the Freedom of Information Act.[678] The likely respondents will be financial institutions—specifically banks, savings associations, or credit unions (depository institutions), and for-profit mortgage-lending institutions (nondepository institutions)—that meet the tests for coverage under Regulation C. These respondents would be required under the proposal to maintain, disclose to the public, and report to Federal agencies, information regarding covered loans and applications for covered loans.

For the purposes of this PRA analysis, the Bureau estimates that, under the proposal, approximately 1,600 depository institutions that currently report HMDA data would no longer be required to report, and that approximately 450 more nondepository institutions would now be required to report. In 2012, approximately 7,400 financial institutions reported data under HMDA. The proposed coverage changes would reduce the number of reporters by an estimated 1,150 reporters for an estimated total of approximately 6,250. Under the proposal, the Bureau generally would account for the paperwork burden for all respondents under Regulation C. Using the Bureau's burden estimation methodology, which projects the estimated burden on several types of representative respondents to the entire market, the Bureau believes the total estimated industry burden for the approximately 6,250 respondents[679] subject to the proposed rule would be approximately 4,700,000 hours per year.[680] The Bureau expects that the amount of time required to implement each of the proposed changes for a given institution may vary based on the size, complexity, and practices of the respondent.

197 financial institutions reported HMDA data to the Bureau in 2012. Currently, only depository institutions with over $10 billion in assets and their affiliates report their HMDA data to the Bureau. Given their large asset size, it is reasonable to believe that Bureau reporters are most likely aligned with the representative tier 1 institution.[681] Therefore, to calculate burden hours, the Bureau assumes all 197 financial institutions that reported HMDA data to the Bureau are tier 1 institutions. The Bureau estimates that the current time burden for the Bureau reporters is approximately 1,787,000 hours per year. 18 of these 197 institutions reported over 75,000 HMDA loan application register records, and would therefore be required to report data quarterly. Including the modifications to the information collection requirements contained in the proposed rule, and the operations modernization measures, the Bureau estimates that the time burden for annual and quarterly Bureau reporters would be 1,694,000 and 183,000 hours per year, respectively, for a total estimated burden hours of 1,877,000 per year. This represents an increase of approximately 90,000 burden hours.

A. Information Collection Requirements[682]

The Bureau believes the following aspects of the proposed rule would be information collection requirements under the PRA: (1) The requirement that financial institutions maintain loan application register information for three years, disclosure statements for five years, and update information regarding reportable transactions quarterly; (2) the requirement that financial institutions report HMDA data annually—or, in the case of financial institutions with at least 75,000 loan application register entries for the preceding calendar year, quarterly—to the Bureau or to the appropriate Federal agency; and (3) the requirement that financial institutions provide modified loan application registers to the public upon request, and provide notices that clearly convey that disclosure statements may be obtained on the FFIEC Web site.

1. Recordkeeping Requirements

Financial institutions are required to maintain loan application register information for three years and disclosure statements for five years. The proposed rule would not modify the recordkeeping period for covered financial institutions, or increase the documentation or non-data-specific information that financial institutions would have to maintain. The proposed rule would increase the number of data fields, and possibly the number of records, that financial institutions are required to gather and report. The Bureau estimates that the current time burden of reporting for the Bureau reporters is approximately 810,000 hours per year. The Bureau estimates that, with the proposed changes and the operations modernization, the time burden for annual and quarterly Bureau reporters would be approximately 766,000 and 77,000 hours per year, respectively, for a total estimate of approximately 843,000 burden hours per year. This represents an increase of approximately 33,000 burden hours.

2. Reporting Requirements

HMDA is a data reporting statute, so most provisions of the proposed rule affect reporting requirements, as described above. Specifically, financial institutions are required to report HMDA data to the Bureau or to the appropriate Federal agency.[683] All reportable transactions must be recorded within 30 calendar days[684] after the end of the calendar quarter in which final action is taken on a loan application register, and a modified version of the loan application register must be disclosed to the public upon request.[685] Under the proposed regulation, financial institutions would make available to the public a modified loan application register showing only the data fields that are currently released on the modified loan application register. Additionally, financial institutions that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, in the preceding calendar year will be required to report HMDA data quarterly to the Bureau or the appropriate Federal agency.

The Bureau estimates that the current time burden of reporting for the Bureau reporters is approximately 971,000 hours per year. The Bureau estimates that, with the proposed changes and the operations modernization, the time burden for annual and quarterly Bureau

[678] 5 U.S.C. 552(b)(6).

[679] The count of 6,250 is constructed as the number of HMDA reporters in 2012 (7,400) less the estimated 1,600 depository institutions that would no longer have to report under the proposed coverage rules plus the additional 450 estimated non-depository institutions that would have to begin reporting under the proposed coverage rules.

[680] The Bureau estimates that, for all HMDA reporters, the burden hours will be approximately 3,356,000 to 5,953,000 hours per year. 4,700,000 is approximately the mid-point of this estimated range.

[681] The Bureau's estimation methodology is fully described in section VI, above.

[682] A detailed analysis of the burdens and costs described in this section can be found in the Paperwork Reduction Act Supporting Statement that corresponds with this proposal. The Supporting Statement is available at *www.reginfo.gov*.

[683] 12 U.S.C. 2803(h)(1).

[684] 12 CFR 1003.4(a).

[685] 12 U.S.C. 2803(j).

reporters would be approximately 921,000 and 105,000 hours per year, respectively, for a total estimate of approximately 1,026,000 burden hours per year. This represents an increase of approximately 55,000 burden hours.

3. Disclosure Requirements

The proposed rule would modify Regulation C's requirements for financial institutions to disclose information to third parties. Covered financial institutions would continue to make their modified loan application registers available to the public upon request, but, as described above, the modified loan application register would be limited to the data that are currently released under Regulation C. Additionally, the proposed rule would allow financial institutions to provide their disclosure statements to the public by making available a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC Web site and that includes the FFIEC's Web site address.

The Bureau estimates that the current time burden of disclosure for the Bureau reporters is approximately 6,000 hours per year. The Bureau estimates that, with the proposed changes and the operations modernization, the time burden for annual and quarterly Bureau reporters would be approximately 7,000 and 1,000 hours per year, respectively, for a total estimate of approximately 8,000 burden hours per year. This represents an increase of approximately 2,000 burden hours.

4. One-Time Costs Associated With the Proposed Information Collections

Financial institutions' management, legal, and compliance personnel will likely take time to learn new reporting requirements and assess legal and compliance risks. Financial institutions that use vendors for HMDA compliance will incur one-time costs associated with software installation, troubleshooting, and testing. The Bureau is aware that these activities will require time and that the costs may be sensitive to the time available for them. Financial institutions that maintain their own reporting systems will incur one-time costs to develop, prepare, and implement necessary modifications to those systems. In all cases, financial institutions will need to update training materials to reflect new requirements and activities and may have certain one-time costs for providing initial training to current employees.

For current HMDA reporters, the Bureau estimates that the proposed rule will impose on average one-time costs of $3,000 for tier 3 financial institutions, $250,000 for tier 2 financial institutions and $800,000 for tier 1 financial institutions without considering the expansion of transactional coverage to include open-end lines of credit and reverse mortgages.[686] Including the estimated one-time costs to modify processes and systems for home-equity products, the Bureau estimates that the total one-time costs would be $3,000 for tier 3 institutions, $375,000 for tier 2 institutions, and $1,200,000 for tier 1 institutions. This yields an overall estimated market impact of between $383,000,000 and $2,100,000,000. Using a 7 percent discount rate and a five-year window, the annualized one-time, additional cost is $93,400,000 to $514,900,000. The Bureau expects to obtain more information about these one-time costs through this NPRM process and other outreach efforts.

[686] The Bureau realizes that the impact to one-time costs varies by institution due to many factors, such as size, operational structure, and product complexity, and that this variance exists on a continuum that is impossible to fully capture. As a result, the one-time cost estimates will be high for some financial institutions, and low for others.

The proposed revisions to the institutional coverage criteria will require an estimated 450 nondepository institutions that are currently not reporting under HMDA to begin reporting. These nondepository institutions will incur start-up costs to develop policies and procedures, infrastructure, and training. Based on outreach discussions with financial institutions, the Bureau believes that these start-up costs will be similar to the one-time costs current reporters will incur in response to the proposed rule, which average $3,000 for tier 3 financial institutions, $375,000 for tier 2 financial institutions, and $1,200,000 for tier 1 financial institutions. Although origination volumes for these 450 nondepository institutions are slightly higher, the Bureau still expects most of these nondepository institutions to be tier 3 financial institutions. Under this assumption, the estimated overall market cost would be $1,350,000.

B. Summary of Burden Hours

The tables below summarize the estimated annual burdens under Regulation C associated with the information collections described above for Bureau reporters and all HMDA reporters, respectively. The tables combine all three aspects of information collection: Reporting, recordkeeping, and disclosure requirements. The Paperwork Reduction Act Supporting Statement that corresponds with this proposal provides more information as to how these estimates were derived and further detail regarding the burden hours associated with each information collection. The first table presents burden hour estimates for financial institutions that report HMDA data to the Bureau, and the second table provides information for all HMDA reporters.

Table 1
Total Annual Burden, All Information Collections-Financial Institutions Reporting to the Bureau

	Number of Respondents	Total Burden per Respondent	Total Burden Hours (Rounded to Nearest Thousand)
Tier One: Annual Reporter	179	9,464 hours	1,694,000
Tier One: Quarterly Reporter	18	10,133 hours	183,000
Tier Two	0	764 hours	0
Tier Three	0	90 hours	0
Total Estimated Burden for Bureau Reporters			**1,877,000 hours**

Table 2
Total Annual Burden, All Information Collections- All Regulated Entities

	Lower Bound Estimate			Upper Bound Estimate		
	Number of Respondents	Total Burden per respondent	Total Burden Hours (Rounded to Nearest Thousand)	Number of Respondents	Total Burden per respondent	Total Burden Hours (Rounded to Nearest Thousand)
Tier One Annual Reporter	268	9,464 hours	2,536,000	194	9,464 hours	1,836,000
Tier One Quarterly Reporter	28	10,133 hours	284,000	28	10,133 hours	284,000
Tier Two	0	764 hours	0	4,884	764 hours	3,730,000
Tier Three	5,954	90 hours	536,000	1,144	90 hours	103,000
Total Estimated Burden for All Respondents						**4,700,000 hours**

C. Comments

Comments are specifically requested concerning: (i) Whether the proposed collections of information are necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (ii) the accuracy of the estimated burden associated with the proposed collections of information; (iii) how to enhance the quality, utility, and clarity of the information to be collected; and (iv) how to minimize the burden of complying with the proposed collections of information, including the application of automated collection techniques or other forms of information technology. Comments regarding the burden estimate, or any other aspect of these collections of information, including suggestions for reducing the burden, should be sent to: The Office of Management and Budget (OMB), Attention: Desk Officer for the Consumer Financial Protection Bureau, Office of Information and Regulatory Affairs, Washington, DC, 20503, or by the Internet to *submissions@omb.eop.gov*. If you wish to share your comments with the Bureau, please send a copy of these comments to the docket for this proposed rule at *www.regulations.gov*. The ICR submitted to OMB requesting approval under the PRA for the information collection requirements contained herein is available both at *www.regulations.gov* as well as OMB's public-facing docket at *www.reginfo.gov*.

List of Subjects in 12 CFR Part 1003

Banks, Banking, Credit unions, Mortgages, National banks, Savings associations, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth above, the Bureau of Consumer Financial Protection proposes to amend Regulation C, 12 CFR part 1003, as set forth below:

PART 1003—HOME MORTGAGE DISCLOSURE (REGULATION C)

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 12 U.S.C. 2803, 2804, 2805, 5512, 5581.

■ 2. Section 1003.1 is amended by revising paragraph (c) to read as follows:

§ 1003.1 Authority, purpose, and scope.

* * * * *

(c) *Scope.* This part applies to financial institutions as defined in § 1003.2(g). The regulation requires a financial institution to report data to the Bureau or to the appropriate Federal agency for the financial institution about covered loans secured by a dwelling located in a State of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico that it originates or purchases, or for which it receives applications; and to disclose certain data to the public.

■ 3. Section 1003.2 is amended by adding paragraph numbers to the existing definitions, by adding paragraphs (d), (e), (k), (n), (o), and (q), and by revising newly designated paragraphs (b), (c), (f), (g), (h), (i), (l), and (p) to read as follows:

§ 1003.2 Definitions.

* * * * *

(b) *Application.* (1) *In general.* Application means an oral or written request for a covered loan that is made in accordance with procedures used by a financial institution for the type of credit requested.

(2) *Preapproval programs.* A request for preapproval for a home purchase loan is an application under this section if the request is reviewed under a program in which the financial institution, after a comprehensive analysis of the creditworthiness of the applicant, issues a written commitment to the applicant valid for a designated period of time to extend a home purchase loan up to a specified amount. The written commitment may not be subject to conditions other than:

(i) Conditions that require the identification of a suitable property;

(ii) Conditions that require that no material change has occurred in the applicant's financial condition or creditworthiness prior to closing; and

(iii) Limited conditions that are not related to the financial condition or creditworthiness of the applicant that the financial institution ordinarily attaches to a traditional home mortgage application.

(c) *Branch office* means:

(1) Any office of a depository financial institution, as defined in paragraph (g)(1) of this section, that is considered a branch by the Federal or State supervisory agency applicable to that financial institution, excluding automated teller machines and other free-standing electronic terminals; and

(2) Any office of a nondepository financial institution, as defined in paragraph (g)(2) of this section, that takes applications from the public for covered loans. A nondepository financial institution is also deemed to have a branch office in an MSA or in an MD, if, in the preceding calendar year, it received applications for, originated, or purchased five or more covered loans related to property located in that MSA or MD, respectively.

(d) *Closed-end mortgage loan* means a debt obligation secured by a lien on a dwelling that is not an open-end line of credit under paragraph (o) of this section, a reverse mortgage under paragraph (q) of this section, or excluded from this part pursuant to § 1003.3(c).

(e) *Covered loan* means a transaction that is, as applicable, a closed-end mortgage loan under paragraph (d) of this section, an open-end line of credit under paragraph (o) of this section, or a reverse mortgage under paragraph (q) of this section.

(f) *Dwelling* means a residential structure, whether or not attached to real property. The term includes but is not limited to a detached home, an individual condominium or cooperative unit, a manufactured or other factory-built home, or a multifamily residential structure.

(g) *Financial institution* means a depository financial institution or a nondepository financial institution, where:

(1) *Depository financial institution* means a bank, savings association, or credit union that:

(i) On the preceding December 31 had assets in excess of the asset threshold established and published annually by the Bureau for coverage by the Act, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve month period ending in November, with rounding to the nearest million;

(ii) On the preceding December 31, had a home or branch office in an MSA;

(iii) In the preceding calendar year, originated at least one home purchase loan or refinancing of a home purchase loan, secured by a first lien on a one-to four-unit dwelling;

(iv) Meets one or more of the following three criteria:

(A) The institution is Federally insured or regulated;

(B) The loan referred to in paragraph (g)(1)(iii) of this section was insured, guaranteed, or supplemented by a Federal agency; or

(C) The loan referred to in paragraph (g)(1)(iii) of this section was intended by the institution for sale to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(v) In the preceding calendar year, originated at least 25 covered loans, excluding open-end lines of credit; and

(2) *Nondepository financial institution* means a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) that:

(i) On the preceding December 31, had a home or branch office in an MSA; and

(ii) In the preceding calendar year, originated at least 25 covered loans, excluding open-end lines of credit.

* * * * *

(i) *Home improvement loan* means a covered loan that is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located.

(j) *Home purchase loan* means a covered loan that is for the purpose of purchasing a dwelling.

(k) *Loan application register* means a register in the format prescribed in appendix A to this part.

(l) *Manufactured home* means any residential structure as defined under regulations of the U.S. Department of Housing and Urban Development establishing manufactured home construction and safety standards (24 CFR 3280.2).

* * * * *

(n) *Multifamily dwelling* means a dwelling, regardless of construction method, that contains five or more individual dwelling units.

(o) *Open-end line of credit* means a transaction that:

(1) Is an open-end credit plan as defined in § 1026.2(a)(20) of Regulation Z, but without regard to whether the credit is for personal, family, or household purposes, without regard to whether the person to whom credit is extended is a consumer, and without regard to whether the person extending credit is a creditor, as those terms are defined under Regulation Z, 12 CFR part 1026;

(2) Is secured by a lien on a dwelling, as defined under paragraph (f) of this section;

(3) Is not a reverse mortgage under paragraph (q) of this section; and

(4) Is not excluded from this part pursuant to § 1003.3(c).

(p) *Refinancing* means a covered loan in which a new debt obligation satisfies and replaces an existing debt obligation by the same borrower, in which both the existing debt obligation and the new debt obligation are secured by liens on dwellings.

(q) *Reverse mortgage* means a transaction that:

(1) Is a reverse mortgage transaction as defined in Regulation Z, 12 CFR 1026.33(a); and

(2) Is not excluded from this part pursuant to § 1003.3(c).

■ 4. Section 1003.3 is amended by revising the section heading and adding paragraph (c) to read as follows:

§ 1003.3 Exempt institutions and excluded transactions.

* * * * *

(c) *Excluded transactions.* The requirements of this part do not apply to:

(1) A loan originated or purchased by the financial institution acting in a fiduciary capacity;

(2) A loan secured by a lien on unimproved land;

(3) Temporary financing;

(4) The purchase of an interest in a pool of loans;

(5) The purchase solely of the right to service loans;

(6) The purchase of loans as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch office as defined in § 1003.2(c);

(7) A loan or application for which the total dollar amount is less than $500;

(8) The purchase of a partial interest in a covered loan; or

(9) A loan used primarily for agricultural purposes.

■ 5. Section 1003.4 is amended by:

■ a. Revising the section heading;

■ b. Revising paragraphs (a) introductory text, (a)(1) through (7), (a)(9) through (11), (a)(12)(i), and (a)(13) and (14);

■ c. Adding paragraphs (a)(15) through (39) and (b);

■ d. Revising paragraph (b);

■ e. Removing and reserving paragraphs (c)(1) through (3) and (d); and

■ f. Adding paragraph (f).

The revisions and addtions read as follows:

§ 1003.4 Compilation of reportable data.

(a) *Data format and itemization.* A financial institution shall collect data regarding applications for covered loans which it receives, originations of covered loans on which it makes a credit decision, and covered loans it purchases for each calendar year. A financial institution shall collect data regarding requests under a preapproval program, as defined in § 1003.2(b)(2), only if the preapproval request is denied, is approved by the financial institution but not accepted by the applicant, or results in the origination of a home purchase loan. The data collected shall include the following items:

(1)(i) A universal loan identifier (ULI) for the covered loan or application that can be used to retrieve the covered loan or application file. For covered loans or applications for which any financial institution has previously reported a ULI under this part, the ULI shall consist of the ULI that was previously reported for the covered loan or application under this part. For all other covered loans and applications, the ULI shall:

(A) Begin with the financial institution's Legal Entity Identifier described in § 1003.5(a)(3); and

(B) Follow the Legal Entity Identifier described in § 1003.5(a)(3) with up to 25 additional characters to identify the covered loan or application, which:

(*1*) May be letters, numerals, symbols, or a combination of any of these;

(*2*) Must be unique within the financial institution; and

(*3*) Must not include any information that could be used to directly identify the applicant or borrower.

(ii) Except for purchased covered loans, the date the application was received or the date shown on the application form.

(2) Whether the covered loan or application is insured under title II of the National Housing Act, is insured under title V of the Housing Act of 1949, or is guaranteed under chapter 37 of title 38 of the United States Code.

(3) Whether the covered loan is, or the application is for, a home purchase loan, a home improvement loan, a refinancing, or for a purpose other than home purchase, home improvement, or refinancing.

(4) Whether the application is a request for preapproval for a home purchase loan.

(5) Whether the construction method for the dwelling related to the property identified in paragraph (a)(9) of this section is site built or a manufactured home.

(6) Whether the property identified in paragraph (a)(9) of this section is or will be used by the applicant or borrower as a principal residence, as a second residence, or as an investment property.

(7) The amount of the covered loan or the amount applied for, as applicable.

(i) For a closed-end mortgage loan, other than a purchased loan or an assumption, the amount of the covered loan is the amount to be repaid as disclosed on the legal obligation. For a purchased closed-end mortgage loan or an assumption of a closed-end mortgage loan, the amount of the covered loan is the unpaid principal balance on the covered loan or assumption at the time of purchase or assumption.

(ii) For an open-end line of credit, including a purchased open-end line of credit or an assumption of an open-end line of credit, the amount of the covered loan is the amount of credit available to the borrower under the terms of the plan.

(iii) For a reverse mortgage, the amount of the covered loan is the initial principal limit, as determined pursuant to section 255 of the National Housing Act (12 U.S.C. 1715z–20) and implementing regulations and mortgagee letters prescribed by the U.S. Department of Housing and Urban Development.

* * * * *

(9) The following information about the location of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan:

(i) The postal address; and

(ii) If the property is located in an MSA or MD in which the financial institution has a home or branch office, the location of the property by:

(A) State;

(B) County;

(C) MSA or MD; and

(D) Census tract if the property is located in a county with a population of more than 30,000 according to the most recent decennial census conducted by the U.S. Census Bureau.

(10) The following information about the applicant or borrower:

(i) Ethnicity, race, sex, and age; and

(ii) Gross annual income relied on in making the credit decision requiring consideration of income or, if a credit decision requiring consideration of income was not made, the gross annual income collected as part of the application process.

(11) The type of entity purchasing a covered loan that the financial institution originates or purchases and then sells within the same calendar year.

(12)(i) For covered loans subject to Regulation Z, 12 CFR part 1026, other than purchased covered loans and reverse mortgages, the difference between the covered loan's annual

percentage rate and the average prime offer rate for a comparable transaction as of the date the interest rate is set.

* * * * *

(13) For covered loans subject to the Home Ownership and Equity Protection Act of 1994, as implemented in Regulation Z, 12 CFR 1026.32, whether the covered loan is a high-cost mortgage under Regulation Z, 12 CFR 1026.32(a), and the reason that the covered loan is a high-cost mortgage, if applicable.

(14) The priority of the lien against the property identified under paragraph (a)(9) of this section.

(15)(i) Except for purchased covered loans, the credit score or scores relied on in making the credit decision and the name and version of the scoring model used to generate each credit score.

(ii) ''Credit score'' has the meaning set forth in 15 U.S.C. 1681g(f)(2)(A).

(16) The reason(s) the financial institution denied the application.

(17) For covered loans or applications subject to the Home Ownership and Equity Protection Act of 1994, as implemented in Regulation Z, 12 CFR 1026.32, or covered loans or applications subject to Regulation Z, 12 CFR 1026.43(e)(2)(iii), other than purchased covered loans, the total points and fees payable in connection with the covered loan or application, expressed in dollars and calculated in accordance with Regulation Z, 12 CFR 1026.32(b)(1) or (2), as applicable.

(18) For covered loans subject to the disclosure requirements in Regulation Z, 12 CFR 1026.19(f), the total of all itemized amounts that are designated borrower-paid at or before closing, expressed in dollars, as disclosed pursuant to Regulation Z, 12 CFR 1026.38(f)(1).

(19) For covered loans subject to the disclosure requirements in Regulation Z, 12 CFR 1026.19(f), the points designated as paid to the creditor to reduce the interest rate, expressed in dollars, as described in Regulation Z, 12 CFR 1026.37(f)(1)(i).

(20) For covered loans subject to the disclosure requirements in Regulation Z, 12 CFR 1026.19(f), other than purchased covered loans, the interest rate that the borrower would receive if the borrower paid no bona fide discount points, as calculated pursuant to Regulation Z, 12 CFR 1026.32.

(21) The interest rate that is or would be applicable to the covered loan at closing or account opening.

(22) Except for purchased covered loans, the term in months of any prepayment penalty, as defined in Regulation Z, 12 CFR 1026.32(b)(6)(i) or (ii), as applicable.

(23) For a covered loan that is not, or an application that is not for, a reverse mortgage, the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision.

(24) The ratio of the total amount of debt secured by the property to the value of the property, determined as follows:

(i) For a covered loan that is a home-equity line of credit, by dividing the sum of the unpaid principal balance of the first mortgage, the full amount of any home-equity line of credit (whether drawn or undrawn), and the balance of any other subordinate financing by the property value identified in paragraph (a)(28) of this section;

(ii) For a covered loan that is not a home-equity line of credit, by dividing the combined unpaid principal balance amounts of the first and all subordinate mortgages, excluding undrawn home-equity lines of credit amounts, by the property value identified in paragraph (a)(28) of this section.

(25) The scheduled number of months after which the legal obligation will mature or would have matured.

(26) The number of months until the first date the interest rate may change after loan origination.

(27) Whether the contractual terms include or would have included any of the following:

(i) A balloon payment as defined in Regulation Z, 12 CFR 1026.18(s)(5)(i);

(ii) Interest-only payments as defined in Regulation Z, 12 CFR 1026.18(s)(7)(iv);

(iii) A contractual term that would cause the covered loan to be a negative amortization loan as defined in Regulation Z, 12 CFR 1026.18(s)(7)(v); or

(iv) Any other contractual term that would allow for payments other than fully amortizing payments, as defined in Regulation Z, 12 CFR 1026.43(b)(2), during the loan term, other than the terms described in paragraphs (a)(27)(i), (ii), and (iii) of this section.

(28) The value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan relied on in making the credit decision.

(29) If the dwelling related to the property identified in paragraph (a)(9) of this section is a manufactured home, whether it is legally classified as real property or as personal property.

(30) If the dwelling related to the property identified in paragraph (a)(9) of this section is a manufactured home, whether the applicant or borrower owns the land on which it is or will be located through a direct or indirect ownership interest or leases the land through a paid or unpaid leasehold.

(31) The number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan.

(32) If the property securing the covered loan or, in the case of an application, proposed to secure the covered loan includes a multifamily dwelling, the number of individual dwelling units related to the property that are income-restricted pursuant to Federal, State, or local affordable housing programs.

(33) Except for purchased covered loans, the following information about the application channel of the covered loan or application:

(i) Whether the applicant or borrower submitted the application for the covered loan directly to the financial institution; and

(ii) Whether the obligation arising from the covered loan was, or in the case of an application, would have been initially payable to the financial institution.

(34) For a covered loan or application, the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry (NMLSR ID) for the mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, as applicable.

(35)(i) Except for purchased covered loans, the name of the automated underwriting system used by the financial institution to evaluate the application and the recommendation generated by that automated underwriting system.

(ii) For purposes of this section, an automated underwriting system means an electronic tool developed by a securitizer, Federal government insurer, or guarantor that provides a recommendation regarding whether the application is eligible to be purchased, insured, or guaranteed by that securitizer, Federal government insurer, or guarantor.

(36) Whether the covered loan is, or the application is for, a reverse mortgage, as defined in § 1003.2(q), and whether the reverse mortgage is an open- or closed-end transaction.

(37) Whether the covered loan is, or the application is for, an open-end line of credit, as defined in § 1003.2(o), and whether the covered loan is, or the application is for, a home-equity line of credit, as defined in § 1003.2(h).

(38) Whether the covered loan is subject to the ability-to-repay provisions of Regulation Z, 12 CFR 1026.43, and whether the covered loan is a qualified

mortgage, as described under Regulation Z, 12 CFR 1026.43(e) or (f).

(39) For a home-equity line of credit and an open-end reverse mortgage, the amount of the draw on the covered loan, if any, made at account opening.

(b) *Collection of data on ethnicity, race, sex, age, and income.* (1) A financial institution shall collect data about the ethnicity, race, sex, and age of the applicant or borrower as prescribed in appendices A and B to this part.

(2) Ethnicity, race, sex, age, and income data may but need not be collected for covered loans purchased by the financial institution.

* * * * *

(f) *Quarterly recording of data.* A financial institution shall record the data collected pursuant to this section on a loan application register within 30 calendar days after the end of the calendar quarter in which final action is taken (such as origination or purchase of a covered loan, or denial or withdrawal of an application).

■ 6. Section 1003.5 is amended by revising paragraph (a)(1), adding paragraphs (a)(3) and (4), and revising paragraphs (b) through (f) to read as follows:

§ 1003.5 Disclosure and reporting.

(a) *Reporting to agency.* (1)(i) Except as described in paragraph (a)(1)(ii) of this section, by March 1 following the calendar year for which data are compiled and recorded as required by § 1003.4, a financial institution shall submit its complete loan application register in electronic format to the Bureau or to the appropriate Federal agency for the financial institution in accordance with the instructions in appendix A to this part. The financial institution shall retain a copy of its complete loan application register for its records for at least three years.

(ii) Effective [x], within 60 calendar days after the end of each calendar quarter, a financial institution that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, for the preceding calendar year shall submit its loan application register containing all data required to be recorded for that quarter pursuant to § 1003.4(f). The financial institution shall submit its quarterly loan application register in electronic format to the Bureau or to the appropriate Federal agency for the financial institution in accordance with the instructions in appendix A to this part. The financial institution shall retain a copy of its complete loan application register for its records for at least three years.

(iii) An officer of the financial institution shall certify to the accuracy of data submitted.

* * * * *

(3) When reporting its data, a financial institution shall provide a Legal Entity Identifier (LEI) for the financial institution issued by:

(i) A utility endorsed by the LEI Regulatory Oversight Committee; or

(ii) A utility endorsed or otherwise governed by the Global LEI Foundation (GLEIF) (or any successor of the GLEIF) after the GLEIF assumes operational governance of the global LEI system.

(4) When reporting its data, a financial institution shall identify its parent company, if any.

(b) *Disclosure statement.* (1) The Federal Financial Institutions Examination Council (FFIEC) will make available a disclosure statement based on the data each financial institution submits for the preceding calendar year.

(2) No later than three business days after receiving notice that its disclosure statement is available, a financial institution shall make its disclosure statement available to the public by making available at its home office and each branch office located in each MSA and each MD a notice that clearly conveys that the institution's disclosure statement may be obtained on the FFIEC Web site and that includes the FFIEC's Web site address.

(c) *Public disclosure of modified loan application register.* (1) A financial institution shall make its loan application register available to the public after, for each entry:

(i) Removing the information required to be reported under § 1003.4(a)(1), the date required to be reported under § 1003.4(a)(8), the postal address required to be reported under § 1003.4(a)(9), the age of the applicant or borrower required to be reported under § 1003.4(a)(10), and the information required to be reported under § 1003.4(a)(15) and (a)(17) through (39); and

(ii) Rounding the information required to be reported under § 1003.4(a)(7) to the nearest thousand.

(2) A financial institution shall make available its loan application register, modified as required by paragraph (c)(1) of this section, following the calendar year for which the data are compiled, as follows:

(i) By March 31 for a request received on or before March 1; and

(ii) Within 30 calendar days for a request received after March 1.

(3) The modified loan application register made available pursuant to this paragraph (c) need contain data relating to only the MSA or MD for which the request is made.

(d) *Availability of data.* (1) A financial institution shall make its modified loan application register available to the public for a period of three years and its disclosure statement available to the public for a period of five years. An institution shall make its data available during the hours the office is normally open to the public for business.

(2) A financial institution may impose a reasonable fee for any cost incurred in providing or reproducing its data.

(e) *Notice of availability of data.* A financial institution shall post a general notice about the availability of its HMDA data in the lobby of its home office and of each branch office located in each MSA and each MD.

(f) *Aggregated data.* Using the data submitted by financial institutions, the FFIEC will make available reports for individual institutions and reports of aggregate data for each MSA and MD, showing lending patterns by property location, age of housing stock, and income level, sex, ethnicity, and race. These reports will be made available to the public online at the FFIEC's Web site (*www.ffiec.gov/hmda*).

■ 7. Appendix A to Part 1003 is revised to read as follows:

Appendix A to Part 1003—Form and Instructions for Completion of HMDA Loan Application Register

Paperwork Reduction Act Notice

This report is required by law (12 U.S.C. 2801–2810 and 12 CFR 1003). An agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a valid Office of Management and Budget (OMB) Control Number. See 12 CFR 1003.1(a) for the valid OMB Control Numbers applicable to this information collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the respective agencies and to OMB, Office of Information and Regulatory Affairs, Paperwork Reduction Project, Washington, DC 20503. Be sure to reference the applicable agency and the OMB Control Number, as found in 12 CFR 1003.1(a), when submitting comments to OMB.

I. Instructions for Completion of Loan Application Register

1. *Instructions and designations.* This part to this appendix contains instructions for the completion of the loan application register. Each instruction in this appendix is identified by a number and the regulatory section and paragraph which provides the reporting requirement. The instructions are designated according to the particular regulatory provision addressed. For example, the first instruction in this appendix for reporting the action taken under

§ 1003.4(a)(8) may be cited as instruction 4(a)(8)–1. This paragraph may be cited as instruction I–1.

Paragraph 4(a)(1)(i)—ULI

1. Enter the ULI assigned to the covered loan or application.

Paragraph 4(a)(1)(ii)—Date Application Received

1. Enter the date the application was received or the date shown on the application form by year, month, and day, using numerals in the form YYYYMMDD. Enter ''NA'' for covered loans purchased by your institution.

Paragraph 4(a)(2)—Loan or Application Type

1. Indicate the type of covered loan or application by entering the applicable Code from the following:

Code 1—Conventional
Code 2—FHA
Code 3—VA
Code 4—USDA Rural Development

a. Use Code 2 if the covered loan or application is insured under title II of the National Housing Act.

b. Use Code 3 if the covered loan or application is guaranteed under chapter 37 of title 38 of the United States Code.

c. Use Code 4 if the covered loan or application is insured under title V of the Housing Act of 1949.

d. Use Code 1 if the covered loan or application is not insured under title II of the National Housing Act, not insured under title V of the Housing Act of 1949, and not guaranteed under chapter 37 of title 38 of the United States Code.

Paragraph 4(a)(3)—Purpose of Loan or Application

1. Indicate the purpose of the loan or application by entering the applicable Code from the following:

Code 1—Home purchase
Code 2—Home improvement
Code 3—Refinancing
Code 4—Other

a. For refinancings, enter Code 4 if, under the terms of the agreement, you were unconditionally obligated to refinance the obligation, or you were obligated to refinance the obligation subject to conditions within the borrower's control.

Paragraph 4(a)(4)—Preapproval

1. Indicate whether the application or covered loan involved a request for preapproval for a home purchase loan by entering the applicable Code from the following:

Code 1—Preapproval requested
Code 2—Preapproval not requested
Code 3—Not applicable

a. Enter Code 1 if your institution has a preapproval program as defined in § 1003.2(b)(2) and the applicant requests a preapproval for a home purchase loan. Do not use Code 1 if a request for preapproval is withdrawn or for requests for preapproval that are closed for incompleteness; such preapproval requests are not reported under HMDA as implemented by Regulation C.

b. Enter Code 2 if your institution has a preapproval program as defined in § 1003.2(b)(2) but the applicant does not request a preapproval.

c. Enter Code 3 if your institution does not have a preapproval program as defined in § 1003.2(b)(2).

d. Enter Code 3 for applications for or originations of home improvement loans, refinancings, open-end lines of credit, home-equity lines of credit, reverse mortgages, and for purchased loans.

Paragraph 4(a)(5)—Construction Method

1. Indicate the construction method for the dwelling related to the covered loan or application by entering the applicable Code from the following:

Code 1—Site Built
Code 2—Manufactured Home
Code 3—Other

a. Enter Code 1 if most of the dwelling's elements were created at the dwelling's permanent site (including the use of prefabricated components), or if the dwelling is a modular or other factory-built home (including a modular home with a permanent metal chassis) that does not meet the definition of a manufactured home under § 1003.2(l).

b. Enter Code 2 if the dwelling meets the definition of a manufactured home under § 1003.2(l).

c. Enter Code 3 for a dwelling that is not site built or a manufactured home under § 1003.2(l).

Paragraph 4(a)(6)—Occupancy Type

1. Indicate the occupancy status of the property to which the covered loan or application relates by entering the applicable Code from the following:

Code 1—Principal residence
Code 2—Second residence
Code 3—Investment property with rental income
Code 4—Investment property without rental income

a. For purchased loans, use Code 1 unless the application or documents for the covered loan indicate that the property will not be occupied as a principal residence.

b. Use Code 2 for second homes or vacation homes.

c. Use Code 3 for investment properties that are owned for the purpose of generating income by renting the property.

d. Use Code 4 for investment properties that are not owned for the purpose of generating income by renting the property.

Paragraph 4(a)(7)—Loan Amount

1. Enter the amount of the covered loan or the amount applied for, as applicable, in dollars.

Paragraph 4(a)(8)—Action Taken

1. Type of Action. Indicate the type of action taken on the application or covered loan by using one of the following Codes.

Code 1—Loan originated
Code 2—Application approved but not accepted
Code 3—Application denied
Code 4—Application withdrawn
Code 5—File closed for incompleteness
Code 6—Loan purchased by your institution
Code 7—Preapproval request denied
Code 8—Preapproval request approved but not accepted

a. Use Code 1 for a covered loan that is originated, including one resulting from a request for preapproval.

b. For a counteroffer (your offer to the applicant to make the covered loan on different terms or in a different amount from the terms or amount applied for), use Code 1 if the applicant accepts. Use Code 3 if the applicant turns down the counteroffer or does not respond.

c. Use Code 2 when the application is approved but the applicant (or the party that initially received the application) fails to respond to your notification of approval or your commitment letter within the specific time. Do not use this Code for a preapproval request.

d. Use Code 4 only when the application is expressly withdrawn by the applicant before satisfying all underwriting or creditworthiness conditions and before the institution denies the application or closes the file for incompleteness. Do not use Code 4 if a request for preapproval is withdrawn; preapproval requests that are withdrawn are not reported under HMDA.

e. Use Code 5 if you sent a written notice of incompleteness under § 1002.9(c)(2) of Regulation B (Equal Credit Opportunity Act) and the applicant did not respond to your request for additional information within the period of time specified in your notice. Do not use this Code for requests for preapproval that are incomplete; these preapproval requests are not reported under HMDA.

2. Date of Action. Enter the date of action taken by year, month, and day, using numerals in the form YYYYMMDD.

a. For covered loans originated, enter the settlement or closing date.

b. For covered loans purchased, enter the date of purchase by your institution.

c. For applications and preapprovals denied, applications and preapprovals approved but not accepted by the applicant, and files closed for incompleteness, enter the date that the action was taken by your institution or the date the notice was sent to the applicant.

d. For applications withdrawn, enter the date you received the applicant's express withdrawal, whether received in writing or orally, or enter the date shown on the notification from the applicant, in the case of a written withdrawal.

e. For preapprovals that lead to a loan origination, enter the date of the origination.

Paragraph 4(a)(9)—Postal Address and Location of Subject Property

1. Property Location Information. Enter the following information about the location of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan:

a. Street Address. Enter the street address of the property.

i. For originations and purchases, the address must correspond to the property identified on the legal obligation related to the covered loan. For applications that did not result in an origination, the address must

correspond to the property identified by the applicant.

ii. Include, as applicable, the address number, the street name, the street direction, address unit designators, and the address unit value, using U.S. Postal Service official abbreviations. For example, 100 N Main St Apt 1.

iii. Do not enter a post office box.

iv. Enter ''NA'' only if the street address is not known. For example, if the property does not have a postal address at closing or if the applicant did not provide the postal address of the property to the financial institution before the application was denied, withdrawn, or closed for incompleteness.

b. City Name. Enter the name of the city.

i. Enter ''NA'' only if the city location is not known. For example, if the property does not have a postal address at closing or if the applicant did not provide the postal address of the property to the financial institution before the application was denied, withdrawn, or closed for incompleteness.

c. State Code. Enter the two letter State code for the applicable State, using the U.S. Postal Service official State abbreviations.

d. Zip Code. Enter the zip code. The zip code may be five or nine digits. Do not enter dashes.

i. Enter ''NA'' only if the zip code is not known. For example, if the property does not have a postal address at closing or if the applicant did not provide the postal address of the property to the financial institution before the application was denied, withdrawn, or closed for incompleteness.

e. Metropolitan Statistical Area (MSA) or Metropolitan Division (MD). Enter the five-digit MSA or MD number if the MSA is divided into MDs. MSA and MD boundaries and five-digit codes are defined by the U.S. Office of Management and Budget. Use the boundaries and codes that were in effect on January 1 of the calendar year for which you are reporting.

i. Enter ''NA'' if the property is not located in an MSA or an MD.

f. County. Enter the Federal Information Processing Standards (FIPS) three-digit numerical code for the county. These codes are available from the appropriate Federal agency to which you report data.

g. Census Tract. Enter the census tract number. Census tract numbers are defined by the U.S. Census Bureau. Use the boundaries and codes that were in effect on January 1 of the calendar year for which you are reporting.

i. You may enter ''NA'' if the property is located in a county with a population of 30,000 or less according to the most recent decennial census conducted by the U.S. Census Bureau.

2. Certain Location Information not Required. If your institution is not required to report data for CRA purposes under § 1003.4(e), you may elect to enter ''NA'' for County, MSA, and census tract for entries related to properties that are not located in the MSAs or MDs in which you have a home or branch office.

Paragraph 4(a)(10)—Applicant or Borrower Information

1. Appendix B to this part contains instructions for the collection of data on ethnicity, race, and sex, and also contains a sample form for data collection.

2. Applicability. Report this information for covered loans that you originate as well as for applications that do not result in an origination.

a. You need not collect or report this information for covered loans purchased. If you choose not to report this information for covered loans that you purchase, use the Codes for ''not applicable.''

b. If the borrower or applicant is not a natural person (a corporation, partnership, or trust, for example), use the Codes for ''not applicable.''

Paragraph 4(a)(10)(i)—Ethnicity, Race, Sex, and Age

1. Ethnicity of Borrower or Applicant. Use the following Codes to indicate the ethnicity of the applicant or borrower under column ''A'' and of any co-applicant or co-borrower under column ''CA.''

Code 1—Hispanic or Latino
Code 2—Not Hispanic or Latino
Code 3—Information not provided by applicant in mail, internet, or telephone application
Code 4—Not applicable
Code 5—No co-applicant

2. Race of Borrower or Applicant. Use the following Codes to indicate the race of the applicant or borrower under column ''A'' and of any co-applicant or co-borrower under column ''CA.''

Code 1—American Indian or Alaska Native
Code 2—Asian
Code 3—Black or African American
Code 4—Native Hawaiian or Other Pacific Islander
Code 5—White
Code 6—Information not provided by applicant in mail, internet, or telephone application
Code 7—Not applicable
Code 8—No co-applicant

a. If an applicant selects more than one racial designation, enter all Codes corresponding to the applicant's selections.

b. Use Code 3 (for ethnicity) and Code 6 (for race) if the applicant or co-applicant does not provide the information in an application taken by mail, internet, or telephone.

c. Use Code 4 (for ethnicity) and Code 7 (for race) for ''not applicable'' only when the applicant or co-applicant is not a natural person or when applicant or co-applicant information is unavailable because the covered loan has been purchased by your institution.

d. If there is more than one co-applicant, provide the required information only for the first co-applicant listed on the application form. If there are no co-applicants or co-borrowers, use Code 5 (for ethnicity) and Code 8 (for race) for ''no co-applicant'' in the co-applicant column.

3. Sex of Borrower or Applicant. Use the following Codes to indicate the sex of the applicant or borrower under column ''A'' and of any co-applicant or co-borrower under column ''CA.''

Code 1—Male
Code 2—Female
Code 3—Information not provided by applicant in mail, internet, or telephone application
Code 4—Not applicable
Code 5—No co-applicant

a. Use Code 3 if the applicant or co-applicant does not provide the information in an application taken by mail, internet, or telephone.

b. Use Code 4 for ''not applicable'' only when the applicant or co-applicant is not a natural person or when applicant or co-applicant information is unavailable because the covered loan has been purchased by your institution.

c. If there is more than one co-applicant, provide the required information only for the first co-applicant listed on the application form. If there are no co-applicants or co-borrowers, use Code 5 for ''no co-applicant'' in the co-applicant column.

4. Age of Borrower or Applicant. Enter the age of the applicant or borrower, as of the date of application, derived from the date of birth as shown on the application form, in number of years under column ''A'' and of any co-applicant or co-borrower under column ''CA.'' Or, use the following Codes as applicable.

Code 1—Not applicable
Code 2—No co-applicant

a. Use Code 1 for ''not applicable'' only when the applicant or co-applicant is not a natural person or when applicant or co-applicant information is unavailable because the covered loan has been purchased by your institution.

b. If there is more than one co-applicant, provide the required information only for the first co-applicant listed on the application form. If there are no co-applicants or co-borrowers, use Code 2 for ''no co-applicant'' in the co-applicant column.

Paragraph 4(a)(10)(ii)—Income

1. Income. Enter the gross annual income that your institution relied on in making the credit decision requiring consideration of income or, if the application was denied or withdrawn or the file was closed for incompleteness before a credit decision requiring consideration of income was made, the gross annual income collected as part of the application process.

a. Round all dollar amounts to the nearest thousand (round $500 up to the next $1,000), and show in thousands. For example, report $35,500 as 36.

b. For a covered loan or application related to a multifamily dwelling, enter ''NA.''

c. If no income information is collected as part of the application process or the covered loan applied for would not or did not require consideration of income, enter ''NA.''

d. If the applicant or co-applicant is not a natural person or the applicant or co-applicant information is unavailable because the covered loan has been purchased by your institution, enter ''NA.''

Paragraph 4(a)(11)—Type of Purchaser

1. Enter the applicable Code to indicate whether a covered loan that your institution originated or purchased was then sold to a secondary market entity within the same calendar year:

Code 0—Covered loan was not originated or was originated or purchased but was not sold to a secondary market entity in calendar year covered by register.
Code 1—Fannie Mae
Code 2—Ginnie Mae
Code 3—Freddie Mac
Code 4—Farmer Mac
Code 5—Private securitization
Code 6—Commercial bank, savings bank, or savings association
Code 7—Life insurance company, credit union, mortgage bank, or finance company
Code 8—Affiliate institution
Code 9—Other type of purchaser

a. Use Code 0 for applications that were denied, withdrawn, or approved but not accepted by the applicant; and for files closed for incompleteness.

b. Use Code 0 if you originated or purchased a covered loan and did not sell it during that same calendar year. For purposes of recording the type of purchaser within 30 calendar days after the end of the calendar quarter pursuant to § 1003.4(f), use Code 0 if you originated or purchased a covered loan and did not sell it during the calendar quarter for which you are recording the data. If you sell the covered loan in a subsequent quarter of the same calendar year, use the appropriate code for the type of purchaser on your loan application register for the quarter in which the covered loan was sold. If you sell the covered loan in a succeeding year, you need not report the sale.

c. Use Code 2 if you conditionally assign a covered loan to Ginnie Mae in connection with a mortgage-backed security transaction.

d. Use Code 5 for private securitizations by purchasers other than by one of the government-sponsored enterprises identified in Codes 1 through 4. If you know or reasonably believe that the covered loan you are selling will be securitized by the institution purchasing the covered loan, then use Code 5 regardless of the type or affiliation of the purchasing institution.

e. Use Code 8 for covered loans sold to an institution affiliated with you, such as your subsidiary or a subsidiary of your parent corporation. For purposes of § 1003.4(a)(11), the term ''affiliate'' means any company that controls, is controlled by, or is under common control with, another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*).

Paragraph 4(a)(12)—Rate Spread

1. Enter the rate spread to three decimal places and use a leading zero, or two leading zeroes, if the rate is less than 1 percent. If the APR exceeds the APOR, enter a positive value. For example, enter 03.295. If the APOR exceeds the APR, enter a negative value. For example, enter −03.295. If the difference between the annual percentage rate and the average prime offer rate is a figure with more than three decimal places, round the figure to three decimal places.

2. Enter ''NA'' in the case of a covered loan not subject to Regulation Z, 12 CFR part 1026, a reverse mortgage, a loan that you purchased or assumed, or an application that does not result in a loan origination or the opening of a line of credit, except for applications that have been approved but not accepted by the applicant.

Paragraph 4(a)(13)—HOEPA Status

1. For a covered loan that you originated or purchased that is a high-cost mortgage under the Home Ownership and Equity Protection Act of 1994 (HOEPA), as implemented in Regulation Z § 1026.32, use the following Codes as applicable:

Code 1—HOEPA loan because of APR
Code 2—HOEPA loan because of points and fees
Code 3—HOEPA loan because of both APR and points and fees
Code 4—Other

a. Enter Code 1 if the annual percentage rate for the transaction exceeds the high-cost mortgage thresholds.

b. Enter Code 2 if the points and fees for the transaction exceed the high-cost mortgage thresholds.

c. Enter Code 3 if both the annual percentage rate and the points and fees for the transaction exceed the high-cost mortgage thresholds.

d. Enter Code 4 in all other cases. For example, enter Code 4 for a covered loan that you originated or purchased that is not a high-cost mortgage for any reason, including because the transaction is not subject to coverage under HOEPA (*e.g.,* reverse mortgage transactions). Also enter Code 4 in the case of an application that does not result in a loan origination.

Paragraph 4(a)(14)—Lien Status

1. Enter the applicable Code for covered loans that you originate or purchase and for applications that do not result in an origination.

Code 1—Secured by a first lien
Code 2—Secured by a second lien
Code 3—Secured by a third lien
Code 4—Secured by a fourth lien
Code 5—Other

a. Use Codes 1 through 5 for covered loans that you originate or purchase, as well as for applications that do not result in an origination (applications that are approved but not accepted, denied, withdrawn, or closed for incompleteness).

b. Use Code 5 when the priority of the lien against the property is other than one identified in Codes 1 through 4 (for example, secured by a fifth lien or sixth lien).

Paragraph 4(a)(15)—Credit Score

1. Score. Enter the credit score(s) relied on in making the credit decision, using column ''A'' for the applicant or borrower and, where required by Regulation C, column ''CA'' for the first co-applicant or co-borrower. Where Regulation C requires you to report a single score for the transaction that corresponds to multiple applicants or borrowers, use column ''A.''

2. Name and Version of Model. For each credit score reported, use the following Codes to indicate the name and version of the model used to generate the credit score relied on in making the credit decision, using column ''A'' and column ''CA'' as applicable.

Code 1—Equifax Beacon 5.0
Code 2—Experian Fair Isaac
Code 3—FICO Risk Score Classic 04
Code 4—FICO Risk Score Classic 98
Code 5—VantageScore 2.0
Code 6—VantageScore 3.0
Code 7—More than one credit scoring model
Code 8—Other credit scoring model
Code 9—Not applicable
Code 10—Purchased loan

a. Use Code 7 if more than one credit scoring model was used in developing the credit score.

b. Use Code 8 for any credit scoring model that is not listed above, and provide the name and version of the scoring model used.

c. Use Code 9 if the file was closed for incompleteness or the application was withdrawn before a credit decision was made or if you did not rely on a credit score in making the credit decision.

d. Use Code 10 if the loan is a purchased loan.

Paragraph 4(a)(16)—Reason(s) for Denial

1. Use the following Codes to indicate the principal reason(s) for denial, indicating up to three reasons.

Code 1—Debt-to-income ratio
Code 2—Employment history
Code 3—Credit history
Code 4—Collateral
Code 5—Insufficient cash (downpayment, closing costs)
Code 6—Unverifiable information
Code 7—Credit application incomplete
Code 8—Mortgage insurance denied
Code 9—Other
Code 10—Not applicable

2. Use Code 9 for ''other'' when a principal reason your institution denied the application is not listed in Codes 1 through 8. For a transaction in which your institution enters Code 9, enter the principal reason(s) the application was denied.

3. Use Code 10 for ''not applicable'' if the action taken on the application, pursuant to § 1003.4(a)(8), is not a denial. For example, use Code 10 if the application was withdrawn before a credit decision was made or the file was closed for incompleteness.

4. If your institution uses the model form for adverse action contained in appendix C to Regulation B (Form C–1, Sample Notice of Action Taken and Statement of Reasons), use the foregoing Codes as follows:

a. Code 1 for: Income insufficient for amount of credit requested, and Excessive obligations in relation to income.

b. Code 2 for: Temporary or irregular employment, and Length of employment.

c. Code 3 for: Insufficient number of credit references provided; Unacceptable type of credit references provided; No credit file; Limited credit experience; Poor credit performance with us; Delinquent past or present credit obligations with others; Number of recent inquiries on credit bureau report; Garnishment, attachment, foreclosure, repossession, collection action, or judgment; and Bankruptcy.

d. Code 4 for: Value or type of collateral not sufficient.

e. Code 6 for: Unable to verify credit references; Unable to verify employment; Unable to verify income; and Unable to verify residence.

f. Code 7 for: Credit application incomplete.

g. Code 9 for: Length of residence; Temporary residence; and Other reasons

specified on the adverse action notice. For a transaction in which your institution enters Code 9 for Other reasons, enter the principal reason(s) the application was denied.

Paragraph 4(a)(17)—Total Points and Fees

1. Enter in dollars the amount of the total points and fees payable in connection with the covered loan or application, rounded to the nearest whole dollar. For example, enter 5472.

2. Enter ''NA'' for covered loans or applications subject to this reporting requirement for which the total points and fees were not known at or before closing in connection with the covered loan, or for covered loans not subject to this reporting requirement, such as purchased covered loans.

Paragraph 4(a)(18)—Total Origination Charges

1. Enter in dollars the total of all itemized amounts that are designated borrower-paid at or before closing, rounded to the nearest whole dollar. For example, enter 1078.

2. Enter ''NA'' for covered loans subject to this reporting requirement for which no amounts paid by the borrower were known at or before closing in connection with the covered loan, or for covered loans not subject to this reporting requirement, such as open-end lines of credit or reverse mortgages.

Paragraph 4(a)(19)—Total Discount Points

1. Enter in dollars the total amount of the points designated as paid to the creditor to reduce the interest rate, rounded to the nearest whole dollar. For example, enter 405.

2. Enter ''NA'' for covered loans subject to this reporting requirement for which no points to reduce the interest rate were known at or before closing in connection with the covered loan, or for covered loans not subject to this reporting requirement, such as open-end lines of credit or reverse mortgages.

Paragraph 4(a)(20)—Risk-Adjusted, Pre-Discounted Interest Rate

1. Enter the interest rate to three decimal places and use a leading zero if the interest rate is under 10 percent. For example, enter 04.125. If the interest rate applicable to the covered loan or application is a figure with more than three decimal places, round the figure to three decimal places.

2. Enter ''NA'' for covered loans not subject to this reporting requirement, such as purchased covered loans, open-end lines of credit, or reverse mortgages.

Paragraph 4(a)(21)—Interest Rate

1. Enter the interest rate that will be applicable, or in the case of an application, that would be applicable, to the covered loan at closing or account opening to three decimal places and use a leading zero if the interest rate is under 10 percent. For example, enter 04.125. If the interest rate applicable to the covered loan is a figure with more than three decimal places, round the figure to three decimal places.

2. Enter ''NA'' for covered loans for which no interest rate is applicable, or for applications for which the interest rate is unknown, such as applications closed for incompleteness.

Paragraph 4(a)(22)—Prepayment Penalty Term

1. Enter the term in months of any prepayment penalty applicable to the covered loan or application. For example, if a prepayment penalty may be imposed within the first 24 months after closing, enter 24.

2. Enter ''NA'' for covered loans for which a prepayment penalty may not be imposed under the terms of the covered loan, for covered loans not subject to this reporting requirement, such as purchased covered loans, or for applications for which the prepayment penalty term is unknown, such as applications closed for incompleteness.

Paragraph 4(a)(23)—DTI Ratio

1. Enter the applicant's or borrower's debt-to-income ratio to two decimal places. For example, enter 25.25. If the applicant's or borrower's debt-to-income ratio is a figure with more than two decimal places, round up to the next hundredth. For example, for a debt-to-income ratio of 25.251, enter 25.26.

2. If no debt-to-income ratio was relied on in making the credit decision, if a file was closed for incompleteness, or if an application was withdrawn before a credit decision was made, enter ''NA.'' Also enter ''NA'' for reverse mortgages.

Paragraph 4(a)(24)—CLTV Ratio

1. Enter the combined loan-to-value ratio applicable to the property to two decimal places. For example, enter 82.95. If the combined loan-to-value ratio is a figure with more than two decimal places, truncate the digits beyond two decimal places.

2. If no combined loan-to-value ratio was calculated in connection with the covered loan or application, enter ''NA.''

Paragraph 4(a)(25)—Loan Term

1. Loan Term. Enter the scheduled number of months after which the legal obligation will mature or would have matured.

a. For a covered loan that you purchased, enter the number of months after which the legal obligation matures as measured from the covered loan's origination.

b. For an open-end line of credit with a definite term, enter the number of months from origination until the account termination date, including both the draw and repayment period.

c. For a covered loan or application without a definite term, such as some home-equity lines of credit or reverse mortgages, enter ''NA.''

Paragraph 4(a)(26)—Introductory Rate Period

1. Enter the number of months from loan origination until the first date the interest rate may change.

a. For a fixed rate covered loan or an application for a fixed rate covered loan, enter ''NA.''

b. For a covered loan you purchased, enter the number of months until the first date the interest rate may change as measured from loan origination, or enter ''NA'' for a purchased fixed rate covered loan.

Paragraph 4(a)(27)(i)—Balloon Payment

1. Indicate if the covered loan or application requires a payment that is more than two times a regular periodic payment.

Code 1—True
Code 2—False

Paragraph 4(a)(27)(ii)—Interest-Only Payments

1. Indicate if the covered loan or application would permit one or more periodic payments to be applied solely to accrued interest and not to principal.

Code 1—True
Code 2—False

Paragraph 4(a)(27)(iii)—Negative Amortization

1. Indicate if the covered loan or application would permit a minimum periodic payment that covers only a portion of the accrued interest, resulting in an increase in the principal balance under the terms of the legal obligation.

Code 1—True
Code 2—False

Paragraph 4(a)(27)(iv)—Other Non-amortizing Features

1. Indicate if the covered loan or application includes contractual terms other than contractual terms described in §§ 1003.4(a)(27)(i), (ii), and (iii) that would allow for payments other than fully amortizing payments during the loan term.

Code 1—True
Code 2—False

Paragraph 4(a)(28)—Property Value

1. Enter the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan relied on in making the credit decision in dollars.

a. If the value of the property was not relied on in making the credit decision, enter ''NA.''

Paragraph 4(a)(29)—Manufactured Home Legal Classification

1. Indicate whether the manufactured home related to the covered loan or application is legally classified as real property or as personal property using the following codes:

Code 1—Real Property
Code 2—Personal Property
Code 3—Not Applicable

a. Use Code 1 if the manufactured home is legally classified as real property under applicable State law.

b. Use Code 2 if the manufactured home is legally classified as personal property under applicable State law.

c. Use Code 3 if the covered loan or application does not relate to a manufactured home.

Paragraph 4(a)(30)—Manufactured Home Land Property Interest

1. Indicate whether the applicant or borrower owns the land on which a manufactured home is or will be located through a direct or indirect ownership interest or leases the land through a paid or

unpaid leasehold according to the following codes:

Code 1—Direct Ownership
Code 2—Indirect Ownership
Code 3—Paid Leasehold
Code 4—Unpaid Leasehold
Code 5—Not Applicable

a. Use Code 1 for a covered loan or application for which the applicant or borrower has a direct ownership interest in the land on which the dwelling is or is to be located, such as fee simple ownership.

b. Use Code 2 for a covered loan or application for which the applicant or borrower holds or will hold an indirect ownership interest in the land on which the dwelling is or is to be located, such as through a resident-owned community structured as a housing cooperative that owns the underlying land.

c. Use Code 3 for a covered loan or application for which the applicant or borrower leases the land on which the dwelling is or is to be located and pays or will make payments pursuant to the lease, such as a lease for a lot in a manufactured home park.

d. Use Code 4 for a covered loan or application for which the applicant or borrower is or will be a tenant on the land on which the dwelling is or is to be located and does not or will not make payments pursuant to the tenancy, such as tenancy on land owned by a family member who has given permission for the location of the manufactured home.

e. Use Code 5 if the covered loan or application does not relate to a manufactured home or if a location for a manufactured home related to a covered loan or application is not determined.

Paragraph 4(a)(31)—Total Units

1. Enter the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan.

Paragraph 4(a)(32)—Multifamily Affordable Units

1. Enter the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan that are income-restricted pursuant to Federal, State, or local affordable housing programs.

a. For a covered loan or application not related to a multifamily dwelling, enter ''NA.''

b. For a covered loan or application related to a multifamily dwelling that does not contain any such income-restricted individual dwelling units, enter ''0.''

Paragraph 4(a)(33)—Application Channel

1. Direct Application. Indicate whether the applicant or borrower submitted the application directly to your institution.

Code 1—True
Code 2—False
Code 3—Not applicable

a. Use Code 1 if the applicant or borrower submitted the application directly to your institution.

b. Use Code 2 if the applicant or borrower did not submit the application directly to your institution.

c. Use Code 3 only if the loan is a purchased loan.

2. Initially Payable. Indicate whether the covered loan was or, in the case of an application, would have been initially payable to your institution.

Code 1—True
Code 2—False
Code 3—Not applicable

a. Use Code 1 if the covered loan was or, in the case of an application, would have been initially payable to your institution.

b. Use Code 2 if the covered loan was not or, in the case of an application, would not have been initially payable to your institution.

c. Use Code 3 only if the loan is a purchased loan.

Paragraph 4(a)(34)—Mortgage Loan Originator Identifier

1. NMLSR ID: Enter the Nationwide Mortgage Licensing System and Registry mortgage loan originator unique identifier (NMLSR ID) as set forth in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008 (S.A.F.E. Act), 12 U.S.C. 5101 *et seq.,* as implemented by Regulation G (S.A.F.E. Mortgage Licensing Act—Federal Registration of Residential Mortgage Loan Originators), 12 CFR part 1007, and Regulation H (S.A.F.E. Mortgage Licensing Act—State Compliance and Bureau Registration System), 12 CFR part 1008.

2. No NMLSR ID: If the mortgage loan originator is not required to obtain and has not been assigned an NMLSR ID, enter ''NA'' for not applicable.

Paragraph 4(a)(35)—Automated Underwriting System (AUS) and Recommendation

1. Automated Underwriting System: Indicate the name of the automated underwriting system (AUS) used by your institution to evaluate the application by entering the applicable Code from the following:

Code 1—Desktop Underwriter
Code 2—Loan Prospector
Code 3—Technology Open to Approved Lenders (TOTAL) Scorecard
Code 4—Guaranteed Underwriting System (GUS)
Code 5—Other
Code 6—Not applicable
Code 7—Purchased loan

a. Use Code 1 for the AUS developed by the Federal National Mortgage Association (Fannie Mae) or any successor.

b. Use Code 2 for the AUS developed by the Federal Home Loan Mortgage Corporation (Freddie Mac) or any successor.

c. Use Code 3 for the AUS developed by the U.S. Department of Housing and Urban Development for Federal Housing Administration (FHA) loans.

d. Use Code 4 for the AUS developed by the U.S. Department of Agriculture for Single Family Housing Guaranteed Loan Program loans.

e. Use Code 5 for an AUS developed by a securitzer, Federal government insurer, or guarantor not listed in Codes 1 through 4. For a transaction in which your institution enters Code 5, enter the name of the AUS used to evaluate the application.

f. Use Code 6 for ''not applicable'' if your institution did not use an AUS developed by a securitzer, Federal government insurer, or guarantor to evaluate the application.

g. Use Code 7 if the loan is a purchased loan.

2. Automated Underwriting System Recommendation: Indicate the recommendation generated by the automated underwriting system (AUS) used by your institution to evaluate the application by entering the applicable Code from the following:

Code 1—Approve/Eligible
Code 2—Approve/Ineligible
Code 3—Refer with Caution
Code 4—Out of Scope
Code 5—Error
Code 6—Accept
Code 7—Caution
Code 8—Refer
Code 9—Other
Code 10—Not applicable
Code 11—Purchased loan

a. Use Code 1, 2, 3, 4, or 5 for the AUS recommendation returned by the Federal National Mortgage Association (Fannie Mae) or any successor.

b. Use Code 6 or 7 for the AUS recommendation returned by the Federal Home Loan Mortgage Corporation (Freddie Mac) or any successor.

c. Use Code 6 or 8 for the AUS recommendation returned by FHA TOTAL Scorecard.

d. Use Code 3, 6, or 8 for the AUS recommendation returned by GUS.

e. Use Code 9 for any AUS recommendation not listed in Codes 1 through 8. For a transaction in which your institution enters Code 9, enter the recommendation generated by the AUS developed by a securitzer, Federal government insurer, or guarantor that was used to evaluate the application.

f. Use Code 10 for ''not applicable'' if your institution did not consider a recommendation generated by an AUS developed by a securitzer, Federal government insurer, or guarantor in its underwriting process. For example, use Code 10 if your institution only manually underwrote the application. Also, use Code 10 if the file was closed for incompleteness or the application was withdrawn before a credit decision was made.

g. Use Code 11 if the loan is a purchased loan.

Paragraph 4(a)(36)—Reverse Mortgage Flag

1. Indicate whether the covered loan is, or the application is for, a reverse mortgage and, for transactions that are reverse mortgages, whether or not it is an open- or closed-end transaction by entering the applicable Code from the following:

Code 1—Closed-end reverse mortgage
Code 2—Open-end reverse mortgage
Code 3—Not applicable

a. If the transaction is a closed-end reverse mortgage transaction, enter Code 1.

b. If the transaction is an open-end reverse mortgage transaction, enter Code 2.

c. If the transaction is not a reverse mortgage transaction, enter Code 3.

Paragraph 4(a)(37)—HELOC Flag.

1. Indicate whether the covered loan is, or the application is for, an open-end line of credit, and whether the covered loan is, or the application is for, a home-equity line of credit, by entering the applicable Code from the following:

Code 1—Home-equity line of credit
Code 2—Open-end line of credit that is not a home-equity line of credit
Code 3—Not applicable

a. If the transaction is a home-equity line of credit, enter Code 1.

b. If the transaction an open-end line of credit, but is not a home-equity line of credit, enter Code 2.

c. If the transaction is not an open-end line of credit, enter Code 3. Also enter Code 3 for an open-end reverse mortgage transaction.

Paragraph 4(a)(38)—Qualified Mortgage Identifier

1. Indicate whether the covered loan is a qualified mortgage, as described under Regulation Z, by entering the applicable Code from the following:

Code 1—Standard qualified mortgage
Code 2—Temporary qualified mortgage
Code 3—Small creditor qualified mortgage
Code 4—Balloon-payment qualified mortgage
Code 5—Not a qualified mortgage
Code 6—Not applicable

2. For covered loans subject to the ability-to-repay provisions of Regulation Z:

a. If the covered loan is a standard qualified mortgage pursuant to Regulation Z § 1026.43(e)(2), enter Code 1.

b. If the covered loan is a temporary qualified mortgage pursuant to Regulation Z § 1026.43(e)(4), enter Code 2.

c. If the covered loan is a small creditor qualified mortgage pursuant to Regulation Z § 1026.43(e)(5), enter Code 3.

d. If the covered loan is a balloon-payment qualified mortgage pursuant to Regulation Z § 1026.43(f), enter Code 4.

e. If the covered loan is not a qualified mortgage pursuant to Regulation Z § 1026.43(e) or (f), enter Code 5.

3. For applications for covered loans and for covered loans not subject to the ability-to-repay provisions of Regulation Z, enter ''not applicable.''

Paragraph 4(a)(39)—HELOC and Open-End Reverse Mortgage First Draw

1. Enter in dollars the amount of any draw on a home-equity line of credit or on an open-end reverse mortgage made at the time of account opening.

II. Instructions for Reporting to the Bureau or Appropriate Federal Agencies

Paragraph 5(a)—Reporting

1. Financial institutions are required to submit all required data to the Bureau or appropriate Federal agency via the Bureau's Web site or via secure electronic submission as specified by the Bureau or appropriate Federal agency in prescribed procedures and technical specifications.

2. With its submission, each financial institution is required:

a. To provide the name, telephone number, facsimile number, and email address of a person who may contacted with questions about the institution's submission;

b. To identify its appropriate Federal agency; and

c. To identify the total entries contained in the submission.

3. Data required to be submitted that are not recorded on the loan application register shall be submitted with the loan application register on the transmittal sheet or in such other format specified by the Bureau or appropriate Federal agency.

[Revised forms to publish in final rule]

■ 8. In Supplement I to Part 1003:

■ a. The heading *Section 1003.1—Authority, Purpose, and Scope,* the subheading *1(c) Scope* under that heading, and paragraphs 1, 2, 3, 4, 5, 6, 7, 8, and 9 under that subheading are removed.

■ b. Under *Section 1003.2—Definitions:*

■ i. The subheading *Application* and paragraphs 1, 2, and 3 under that subheading are revised.

■ ii. The subheading *Branch office* is revised and paragraphs 2 and 3 under that subheading are revised.

■ iii. The subheading *Dwelling* is revised, paragraphs 1 and 2 under that subheading are revised, and paragraph 3 under that subheading is added.

■ iv. The subheading *Financial institution* is revised and paragraphs 1, 3, 4, 5, and 6 under that subheading are revised.

■ v. The subheading *Home improvement loan* is revised, paragraphs 1 and 4 under that subheading are revised, and paragraph 5 under that subheading is removed and reserved.

■ vi. The subheading *Home purchase loan* and paragraphs 1, 2, 3, and 7 under that subheading are revised.

■ vii. The subheading *Manufactured home* is revised, paragraph 1 under that subheading is revised, and new paragraph 2 under that subheading is added.

■ viii. The subheading *2(o) Open-end line of credit* and paragraph 1 under that subheading are added.

■ ix. The subheading *2(p) Refinancing* and paragraphs 1, 2, and 3 under that subheading are added.

■ c. The subheading *Section 1003.3—Exempt institutions and excluded transactions* is added. Under that subheading:

■ i. The subheading *3(c) Excluded transactions* is added.

■ ii. The subheading *Paragraph 3(c)(1)* and paragraph 1 under that subheading are added.

■ iii. The subheading *Paragraph 3(c)(2)* and paragraph 1 under that subheading are added.

■ iv. The subheading *Paragraph 3(c)(3)* and paragraphs 1 and 2 under that subheading are added.

■ v. New subheading *Paragraph 3(c)(4)* and paragraph 1 under that subheading are added.

■ vi. New subheading *Paragraph 3(c)(6)* and paragraph 1 under that subheading are added.

■ vii. New subheading *Paragraph 3(c)(8)* and paragraph 1 under that subheading are added.

■ viii. New subheading *Paragraph 3(c)(9)* and paragraph 1 under that subheading are added.

■ d. The heading *Section 1003.4—Compilation of Reportable Data* is revised, and under that heading:

■ i. Under the subheading *4(a) Data format and itemization,* paragraph 1 is revised and paragraphs 4, 5, and 6 are added.

■ ii. The subheading *Paragraph 4(a)(1)* and paragraphs 1, 2, 3, 4, and 5 under that subheading are removed.

■ iii. The subheading *Paragraph 4(a)(1)(i)* and paragraphs 1 and 2 under that subheading are added.

■ iv. The subheading *Paragraph 4(a)(1)(ii)* and paragraphs 1, 2, 3, and 4 under that subheading are added.

■ v. Under subheading *Paragraph 4(a)(3),* paragraph 2 is revised and paragraph 3 is added.

■ vi. The subheading *Paragraph 4(a)(5)* and paragraphs 1 and 2 under that subheading are added.

■ vii. Under subheading *Paragraph 4(a)(6),* paragraphs 2, 3, and 4 are added.

■ viii. Under the subheading *Paragraph 4(a)(7),* paragraphs 1, 2, 3, and 4 are revised and paragraphs 5 and 6 are added.

■ ix. Under subheading *Paragraph 4(a)(8),* paragraphs 1, 2, 3, 4, 5, 6 and 7 are revised and paragraphs 8 and 9 are added.

■ x. Under the subheading *Paragraph 4(a)(9),* paragraphs 1, 2, 3, and 4 are revised and paragraph 5 is added.

■ xi. The subheading *Paragraph 4(a)(10)* and paragraphs 1, 2, 3, 4, 5, 6, 7, and 8 under that subheading are removed.

■ xii. The subheading *Paragraph 4(a)(10)(i)* and paragraphs 1, 2, 3, 4, and 5 under that subheading are added.

■ xiii. The subheading *Paragraph 4(a)(10)(ii)* and paragraphs 1, 2, 3, 4, 5, and 6 under that subheading are added.

■ xiv. Under the subheading *Paragraph 4(a)(11),* paragraphs 1 and 2 are revised and paragraphs 3, 4, 5, 6, 7, and 8 are added.

■ xv. The subheading *Paragraph 4(a)(12)(ii)* is revised, paragraphs 2 and

3 under that subheading are revised, and paragraphs 4, 5, and 6 are added.

■ xvi. Under the subheading *Paragraph 4(a)(14),* paragraph 1 is revised and paragraph 2 is added.

■ xvii. The subheading *Paragraph 4(a)(15)* and paragraphs 1, 2, 3, and 4 under that subheading are added.

■ xviii. The subheading *Paragraph 4(a)(16)* and paragraphs 1 and 2 under that subheading are added.

■ xix. The subheading *Paragraph 4(a)(21)* and paragraph 1 under that subheading are added.

■ xx. The subheading *Paragraph 4(a)(23)* and paragraphs 1, 2, 3, and 4 under that subheading are added.

■ xxi. The subheading *Paragraph 4(a)(24)* and paragraphs 1, 2, and 3 under that subheading are added.

■ xxii. The subheading *Paragraph 4(a)(25)* and paragraphs 1 and 2 under that subheading are added.

■ xxiii. The subheading *Paragraph 4(a)(26)* and paragraphs 1 and 2 under that subheading are added.

■ xxiv. The subheading *Paragraph 4(a)(27)* and paragraph 1 under that subheading is added.

■ xxv. The subheading *Paragraph 4(a)(28)* and paragraphs 1 and 2 under that subheading are added.

■ xxvi. The subheading *Paragraph 4(a)(29)* and paragraph 1 under that subheading is added.

■ xxvii. The subheading *Paragraph 4(a)(30)* and paragraphs 1, 2, and 3 under that subheading are added.

■ xxviii. The subheading *Paragraph 4(a)(31)* and paragraph 1 under that subheading are added.

■ xxix. The subheading *Paragraph 4(a)(32)* and paragraphs 1, 2, 3, and 4 under that subheading are added.

■ xxx. New subheading *Paragraph 4(a)(33)* is added, and paragraphs 1, 2, and 3 under that subheading are added.

■ xxxi. The subheading *Paragraph 4(a)(34)* and paragraphs 1, 2, and 3 under that subheading are added.

■ xxxii. The subheading *Paragraph 4(a)(35)* and paragraphs 1, 2, and 3 under that subheading are added.

■ xxxiii. The subheading *Paragraph 4(a)(38)* and paragraph 1 under that subheading are added.

■ xxxiv. Under subheading *Paragraph 4(c)(3),* paragraph 1 is removed and reserved.

■ xxxv. The subheading *4(d) Excluded data* is removed and paragraph 1 under that subheading is removed.

■ E. Under *Section 1003.5—Disclosure and Reporting:*

■ i. Under subheading *5(a) Reporting to Agency,* paragraphs 1, 2, 3, 4, and 5 are revised, and paragraphs 6, 7, and 8 are removed.

■ ii. The subheading *5(b) Public disclosure of statement* is revised, paragraph 2 under that subheading is revised, and paragraph 3 under that subheading is added.

■ iii. The subheading *5(c) Public Disclosure of modified loan/application register* is revised and paragraphs 2 and 3 under that subheading are added.

■ iv. Under subheading *5(e) Notice of availability,* paragraph 1 is revised and paragraph 2 is removed.

The revisions and additions read as follows:

Supplement I to Part 1003—Staff Commentary

* * * * *

Section 1003.2—Definitions

2(b) Application.

1. *Consistency with Regulation B.* Bureau interpretations that appear in the official staff commentary to Regulation B (Equal Credit Opportunity Act, 12 CFR part 1002, Supplement I) are generally applicable to the definition of application under Regulation C. However, under Regulation C the definition of an application does not include prequalification requests.

2. *Prequalification.* A prequalification request is a request by a prospective loan applicant (other than a request for preapproval) for a preliminary determination on whether the prospective loan applicant would likely qualify for credit under an institution's standards, or for a determination on the amount of credit for which the prospective applicant would likely qualify. Some institutions evaluate prequalification requests through a procedure that is separate from the institution's normal loan application process; others use the same process. In either case, Regulation C does not require an institution to report prequalification requests on the loan application register, even though these requests may constitute applications under Regulation B for purposes of adverse action notices.

3. *Requests for preapproval.* To be a preapproval program as defined in § 1003.2(b)(2), the written commitment issued under the program must result from a comprehensive review of the creditworthiness of the applicant, including such verification of income, resources, and other matters as is typically done by the institution as part of its normal credit evaluation program. In addition to conditions involving the identification of a suitable property and verification that no material change has occurred in the applicant's financial condition or creditworthiness, the written commitment may be subject only to other conditions (unrelated to the financial condition or creditworthiness of the applicant) that the lender ordinarily attaches to a traditional home mortgage application approval. These conditions are limited to conditions such as requiring an acceptable title insurance binder or a certificate indicating clear termite inspection, and, in the case where the applicant plans to use the proceeds from the sale of the applicant's present home to purchase a new home, a settlement statement showing adequate proceeds from the sale of the present home. Regardless of its name, a program that satisfies the definition of a preapproval program in § 1003.2(b)(2) is a preapproval program for purposes of Regulation C. Conversely, a program that a financial institution describes as a ''preapproval program'' that does not satisfy the requirements of § 1003.2(b)(2) is not a preapproval program for purposes of Regulation C. If a financial institution does not regularly use the procedures specified in § 1003.2(b)(2), but instead considers requests for preapprovals on an *ad hoc basis,* the financial institution need not treat *ad hoc* requests as part of a preapproval program for purposes of Regulation C. A financial institution should, however, be generally consistent in following uniform procedures for considering such *ad hoc* requests.

2(c) Branch office.

* * * * *

2. *Depository financial institution.* A branch office of a depository financial institution does not include a loan-production office if the loan production office is not considered a branch by the Federal or State supervisory authority applicable to that institution. A branch office also does not include the office of an affiliate or of a third party, such as a third-party broker.

3. *Nondepository financial institution.* A branch office of a nondepository financial institution does not include the office of an affiliate or of a third party, such as a third party broker.

2(f) Dwelling.

1. *General.* The definition of a dwelling is not limited to the principal or other residence of the applicant or borrower, and thus includes vacation or second homes and investment properties. A dwelling also includes a multifamily residential structure such as an apartment, condominium, or cooperative building or complex.

2. *Exclusions.* Recreational vehicles, including boats, campers, travel trailers, and park model recreational vehicles, are not considered dwellings for purposes of § 1003.2(f), regardless of whether they are used as residences. Houseboats, floating homes, and mobile homes constructed before June 15, 1976, are also excluded, regardless of whether they are used as residences. Also excluded are transitory residences such as hotels, hospitals, and college dormitories, and structures originally designed as dwellings but used exclusively for commercial purposes such as homes converted to daycare facilities or professional offices.

3. *Mixed-use properties.* A property used for both residential and commercial purposes, such as a building containing apartment units and retail space, is a dwelling if the property's primary use is residential. An institution may use any reasonable standard to determine the primary use of the property, such as by square footage or by the income generated. An institution may select the standard to apply on a case-by-case basis. However, an institution shall consider a property that includes five or more individual dwelling units to have a primary residential use.

2(g) Financial institution.

1. *Preceding calendar year and preceding December 31.* The definition of financial institution refers both to the preceding calendar year and the preceding December 31. These terms refer to the calendar year and the December 31 preceding the current calendar year. For example, in year two, year one is the preceding calendar year and December 31 of year one is the preceding December 31. Accordingly, in year two, Financial Institution A satisfies the asset threshold described in § 1003.2(g)(1)(i) if its assets exceeded the threshold specified in comment 2(g)–2 on December 31 of year one. Likewise, in year two, Financial Institution A does not meet the loan volume test described in § 1003.2(g)(1)(v) if it originated fewer than 25 covered loans during year one.

* * * * *

3. *Coverage after a merger or acquisition.* Several scenarios of data-collection responsibilities for the calendar year of a merger or acquisition are described below. For the purposes of these illustrations, a ''covered institution'' means a financial institution, as defined in § 1003.2(g), that is not exempt from reporting under § 1003.3(a), and ''an institution that is not covered'' means an institution that is not a financial institution, as defined in § 1003.2(g) or that is exempt from reporting under § 1003.3(a). Under all the scenarios, if the merger or acquisition results in a covered institution, that institution must begin data collection on January 1 of the calendar year following the merger.

i. Two institutions that are not covered merge. The merged entity meets all of the requirements necessary to be a covered institution. No data collection is required for the calendar year of the merger (even though the merger creates an institution that meets all of the requirements necessary to be a covered institution). When a branch office of an institution that is not covered is acquired by another institution that is not covered, and the acquisition results in a covered institution, no data collection is required for the calendar year of the acquisition.

ii. A covered institution and an institution that is not covered merge. The covered institution is the surviving institution, or a new covered institution is formed. For the calendar year of the merger, data collection is required for the covered institution's covered loans and applications and is optional for covered loans and applications handled in offices of the institution that was previously not covered. When a covered institution acquires a branch office of an institution that is not covered, data collection is optional for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iii. A covered institution and an institution that is not covered merge. The institution that is not covered is the surviving institution, or a new institution that is not covered is formed. For the calendar year of the merger, data collection is required for covered loans and applications of the covered institution that take place prior to the merger. Data collection by the previously covered institution is optional for that calendar year for transactions taking place after the merger date. When an institution remains not covered after acquiring a branch office of a covered institution, data collection is required for transactions of the covered branch office that take place prior to the acquisition. Data collection by the previously covered branch office is optional for transactions taking place after the acquisition.

iv. Two covered institutions merge. Data collection is required for the entire year. The surviving or new institution files either a consolidated submission or separate submissions for that calendar year. When a covered institution acquires a branch office of a covered institution, data collection is required for the entire year. Data for the acquired branch office may be submitted by either institution.

4. *Originations.* Whether an institution meets the definition of a financial institution depends in part on whether an institution has originated a certain number and type of covered loans. To determine whether activities with respect to a particular covered loan constitute an origination, institutions should consult comments 4(a)–4 and 4(a)–5.

5. *Branches of foreign banks—treated as banks.* A Federal branch or a State-licensed or insured branch of a foreign bank that meets the definition of a ''bank'' under section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is a bank for the purposes of § 1003.2(g).

6. *Branches and offices of foreign banks and other entities—treated as nondepository financial institutions.* A Federal agency, State-licensed agency, State-licensed uninsured branch of a foreign bank, commercial lending company owned or controlled by a foreign bank, or entity operating under section 25 or 25A of the Federal Reserve Act, 12 U.S.C. 601 and 611 (Edge Act and agreement corporations) may not meet the definition of ''bank'' under the Federal Deposit Insurance Act and may thereby fail to satisfy the definition of a depository financial institution under § 1003.2(g)(1). An entity is nonetheless a financial institution if it meets the definition of nondepository financial institution under § 1003.2(g)(2).

2(i) Home improvement loan.

1. *General.* Section 1003.2(i) defines a home improvement loan by reference to the purpose of the obligation. For example, a closed-end mortgage loan obtained for the purpose of repairing a dwelling by replacing a roof is a home improvement loan for purposes of § 1003.2(i). An obligation is a home improvement loan even if only a part of the purpose is for repairing, rehabilitating, remodeling, or improving a dwelling. For example, a home-equity line of credit obtained in part for the purpose of remodeling a kitchen and in part for purposes other than repairing, rehabilitating, remodeling, or improving a dwelling is a home improvement loan for purposes of § 1003.2(i).

* * * * *

4. *Mixed-use property.* A covered loan to improve property used for residential and commercial purposes (for example, a building containing apartment units and retail space) is a home improvement loan if the loan proceeds are used primarily to improve the residential portion of the property. If the loan proceeds are used to improve the entire property (for example, to replace the heating system), the covered loan is a home improvement loan if the property itself is primarily residential. A financial institution may use any reasonable standard to determine the primary use of the property, such as by square footage or by the income generated. A financial institution may select the standard to apply on a case-by-case basis.

* * * * *

2(j) Home purchase loan.

1. *General.* Section 1003.2(j) defines a home purchase loan as a covered loan that is for the purpose of purchasing a dwelling. For example, if a person obtains a closed-end mortgage loan for the purpose of purchasing a dwelling, the closed-end mortgage loan is a home purchase loan for purposes of § 1003.2(j). However, if a person purchases a dwelling by entering into an installment contract that is not secured by a lien on a dwelling, that contract is not a home purchase loan for purposes of § 1003.2(j).

2. *Multiple properties.* A home purchase loan includes a covered loan secured by one dwelling and used to purchase another dwelling. For example, if a person obtains a reverse mortgage secured by one dwelling for the purpose of purchasing another dwelling, the reverse mortgage is a home purchase loan for purposes of § 1003.2(j).

3. *Mixed-use property.* A covered loan to purchase property used primarily for residential purposes (for example, an apartment building containing a convenience store) is a home purchase loan. A financial institution may use any reasonable standard to determine the primary use of the property, such as by square footage or by the income generated. A financial institution may select the standard to apply on a case-by-case basis.

* * * * *

7. *Assumptions.* For purposes of § 1003.2(j), an assumption is a home purchase loan when a financial institution enters into a written agreement accepting a new borrower as the obligor on an existing obligation for a covered loan. If an assumption does not involve a written agreement between a new borrower and the financial institution, it is not a home purchase loan for purposes of § 1003.2(j).

2(l) Manufactured home.

1. *Definition of a manufactured home.* The definition in § 1003.2(l) refers to the Federal building code for manufactured housing established by the U.S. Department of Housing and Urban Development (HUD) (24 CFR 3280.2). Modular or other factory-built homes that do not meet the HUD code standards are not manufactured homes for purposes of § 1003.2(l). Recreational vehicles are excluded from the HUD code standards pursuant to 24 CFR 3282.8(g) and are also excluded from the definition of dwelling for purposes of § 1003.2(f). *See* comment 2(f)-2.

2. Identification. A manufactured home will generally bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location noting its compliance with the Federal Manufactured Home Construction and Safety Standards in force at the time of

manufacture and providing other information about its manufacture pursuant to 24 CFR 3280.5. A manufactured home will generally also bear a HUD Certification Label pursuant to 24 CFR 3280.11.

* * * * *

2(o) Open-end line of credit.

1. *General.* Section 1003.2(o) defines an open-end line of credit for purposes of Regulation C. Among other things, § 1003.2(o) defines an open-end line of credit by reference to Regulation Z, 12 CFR 1026.2(a)(20), but without regard to whether the credit is for personal, family, or household purposes, without regard to whether the person to whom credit is extended is a consumer, and without regard to whether the person extending credit is a creditor, as those terms are defined under Regulation Z. For example, assume a business-purpose transaction that is exempt from Regulation Z pursuant to § 1026.3(a)(1), but that otherwise would be considered open-end credit under § 1026.2(a)(20). In this example, the business-purpose transaction is an open-end line of credit, provided the other requirements of § 1003.2(o) are met. Similarly, assume a transaction in which the person extending open-end credit is a financial institution under § 1003.2(g), but is not a creditor under § 1026.2(a)(17). In this example, the transaction is an open-end line of credit, assuming the other requirements of § 1003.2(o) are met. Aside from these distinctions, financial institutions may rely on § 1026.2(a)(20) and the related commentary in determining whether a transaction is open-end credit under § 1003.2(o)(1).

2(p) Refinancing.

1. *General.* Section 1003.2(p) defines a refinancing as a covered loan in which a new debt obligation satisfies and replaces an existing debt obligation by the same borrower, in which both the existing debt obligation and the new debt obligation are secured by liens on dwellings. For example, if a borrower obtains a new closed-end mortgage loan that satisfies and replaces one or more existing closed-end mortgage loans, the new closed-end mortgage loan is a refinancing for purposes of § 1003.2(p). Similarly, if a borrower obtains a home-equity line of credit that satisfies and replaces an existing closed-end mortgage loan, the new home-equity line of credit is a refinancing for purposes of § 1003.2(p). However, if a borrower enters into a new debt obligation that modifies that terms of the existing debt obligation, but does not satisfy and replace the existing debt obligation, the new debt obligation is not a refinancing for purposes of § 1003.2(p). See also § 1003.2(g) and the related commentary regarding the refinancings that are considered for purposes of determining whether a person is a financial institution.

2. *Debt obligation.* For purposes of determining whether the transaction is a refinancing under § 1003.2(p), both the existing debt obligation and the new debt obligation must be secured by liens on dwellings. For example, assume that a borrower has an existing $30,000 covered loan secured by a dwelling. If the borrower obtains a new $50,000 covered loan secured by a dwelling that satisfies and replaces the existing $30,000 covered loan, the new $50,000 covered loan is a refinancing for purposes of § 1003.2(p). However, if the borrower obtains a new $50,000 loan secured by a guarantee that satisfies and replaces the existing $30,000 loan, the new $50,000 loan is not a refinancing for purposes of § 1003.2(p).

3. *Same borrower.* Section 1003.2(p) provides that the existing and new obligation must both be by the same borrower. For purposes of § 1003.2(p), only one borrower must be the same on both the existing and new obligation. For example, if two borrowers are obligated on an existing obligation, and only one of those two borrowers are obligated on a new obligation that satisfies and replaces the existing obligation, the new obligation is a refinancing for purposes of § 1003.2(p), assuming the other requirements of that section are met. However, assume a scenario where two spouses are divorcing. If only one spouse is obligated on an existing obligation, and the other spouse is obligated on a new obligation that satisfies and replaces the existing obligation, the new obligation is not a refinancing for purposes of § 1003.2(p).

Section 1003.3—Exempt Institutions and Excluded Transactions

3(c) Excluded transactions.

Paragraph 3(c)(1).

1. *Financial institution acting in a fiduciary capacity.* A financial institution is acting in a fiduciary capacity if, for example, the financial institution is acting as a trustee.

Paragraph 3(c)(2).

1. *Loan secured by a lien on unimproved land.* Section 1003.3(c)(2) provides that a loan secured by a lien on unimproved land is an excluded transaction. A loan that is secured by vacant land under Regulation X, 12 CFR 1024.5(b)(4), is a loan secured by a lien on unimproved land. However, a loan does not qualify for this exclusion if the financial institution knows or reasonably believes that within two years after the loan closes, a dwelling will be constructed or placed on the land using the loan proceeds.

Paragraph 3(c)(3).

1. *Temporary financing—general.* Temporary financing refers to loans that are designed to be replaced by permanent financing at a later time. For example, a bridge loan or swing loan is considered temporary financing, as is a loan that meets the definition of temporary financing in Regulation X, 12 CFR 1024.5(b)(3). A construction loan with a term of two years or more to construct a new dwelling, other than a loan to a bona fide builder (a person who regularly constructs dwellings for sale or lease), is not considered temporary financing.

2. *Temporary financing—loans that convert to permanent financing.* A loan that is designed to be converted to permanent financing by the same financial institution is not temporary financing. For example, a loan made to finance construction of a dwelling is not considered temporary financing if the loan is designed to be converted to permanent financing by the same institution or if the loan is used to finance transfer of title to the first user. Likewise, if an institution issues a commitment for permanent financing, with or without conditions, the loan is not considered temporary financing.

Paragraph 3(c)(4).

1. *Purchase of an interest in a pool of loans.* The purchase of an interest in a pool of loans includes, for example, mortgage-participation certificates, mortgage-backed securities, or real estate mortgage investment conduits.

Paragraph 3(c)(6).

1. *Mergers, purchases in bulk, and branch office acquisitions.* If a financial institution acquires covered loans in bulk from another institution (for example, from the receiver for a failed institution), but no merger or acquisition of an institution, or acquisition of a branch office, is involved, the acquiring financial institution reports the covered loans as purchased loans.

Paragraph 3(c)(8).

1. *Partial interest.* If a financial institution acquires only a partial interest in a covered loan, the institution does not report the transaction even if the institution participated in the underwriting and origination of the loan. If a financial institution acquires a 100 percent interest in a covered loan, the transaction is not excluded under § 1003.3(c)(8).

Paragraph 3(c)(9).

1. *Farm loan.* A financial institution does not report a loan to purchase property used primarily for agricultural purposes, even if the property includes a dwelling. A financial institution may use any reasonable standard to determine the primary use of the property, such as by reference to the exemption from Regulation X, 12 CFR 1024.5(b)(1), for a loan on property of 25 acres or more. An institution may select the standard to apply on a case-by-case basis.

Section 1003.4—Compilation of Reportable Data

4(a) Data Format and Itemization

1. *General.* Section 1003.4(a) describes a financial institution's obligation to collect data on applications which it received, covered loans on which it made a credit decision, and on covered loans that it purchased during the calendar year described in the loan application register.

i. A financial institution reports these data even if the covered loans were subsequently sold by the institution.

ii. A financial institution reports data for applications that did not result in an origination but on which action was taken—for example, an application that the institution denied, that it approved but was not accepted, that it closed for incompleteness, or that the applicant withdrew during the calendar year covered by the register. A financial institution is required to report data regarding requests under a preapproval program (as defined in § 1003.2(b)(2)) only if the preapproval request is denied, results in the origination of a home purchase loan, or was approved but not accepted.

iii. A financial institution reports the data for an application on the loan application register for the calendar year during which the application was acted upon even if the

institution received the application in a previous calendar year.

iv. A financial institution may report data on a single loan application register, separate loan application registers at different branches, or on separate loan application registers for different loan types (such as for home purchase or home improvement loans, or for loans on multifamily dwellings).

* * * * *

4. *Originations and applications involving more than one institution.* Each origination and application is only reported by one financial institution as an origination or application, although a second institution may report the loan as a purchase depending on the circumstances. If more than one institution was involved in an origination of a covered loan, the financial institution that made the credit decision before the loan closed reports the origination or application. In the case of an application for a covered loan that did not result in an origination, the financial institution that made the credit decision or that was reviewing the application when the application was withdrawn or closed for incompleteness reports the application. It is not relevant whether the loan closed or, in the case of an application, would have closed in the institution's name. The following scenarios illustrate which institution reports a particular origination or application. Comment 4(a)–5 discusses how to report actions taken by agents.

i. Financial Institution A received an application for a covered loan from an applicant and forwarded that application to Financial Institution B. Financial Institution B reviewed the application and approved the loan prior to closing. The loan closed in Financial Institution A's name. Financial Institution B purchased the loan from Financial Institution A after closing. Financial Institution B was not acting as Financial Institution A's agent. Since Financial Institution B made the credit decision prior to closing, Financial Institution B reports the transaction as an origination, not as a purchase. Financial Institution A does not report the transaction.

ii. Financial Institution A received an application for a covered loan from an applicant and forwarded that application to Financial Institution B. Financial Institution B reviewed the application before the loan would have closed, but the application did not result in an origination because, for example, the application was denied or the application was withdrawn by the applicant. Financial Institution B was not acting as Financial Institution A's agent. If the loan had been originated, the loan would have closed in Financial Institution A's name and Financial Institution B would have purchased the loan after closing. Since Financial Institution B made the credit decision before the loan would have closed or, in the case of a withdrawal, was in the process of reviewing the application to make a credit decision when the application was withdrawn, Financial Institution B reports the application. Financial Institution A does not report the application.

iii. Financial Institution B purchased a covered loan from Financial Institution A. Financial Institution B did not review the application before closing. Financial Institution A approved the application before closing. Financial Institution A was not acting as Financial Institution B's agent. Since Financial Institution A made the credit decision before closing, Financial Institution A reports the loan as an origination. Financial Institution B reports the loan as a purchase.

iv. Financial Institution A received an application directly from an applicant. If approved, the loan would have closed in Financial Institution B's name. Financial Institution A denied the application without sending it to Financial Institution B for approval. Financial Institution A was not acting as Financial Institution B's agent. Since Financial Institution A made the credit decision before the loan would have closed, Financial Institution A reports the application. Financial Institution B does not report the application.

v. Financial Institution A reviewed and made a credit decision on an application using Financial Institution B's underwriting criteria. Financial Institution B did not review the application. Financial Institution A was not acting as Financial Institution B's agent. Financial Institution A reports the application or origination. Financial Institution B does not report the transaction.

vi. Financial Institution A reviewed and made a credit decision on an application based on the criteria of a third-party insurer or guarantor (including a government or private insurer or guarantor). Financial Institution A reports the application or origination.

5. *Agents.* If a financial institution made a credit decision on a covered loan or application through the actions of an agent, the institution reports the application or origination. State law determines whether one party is the agent of another. For example, acting as Financial Institution A's agent, Financial Institution B approved an application prior to closing and a covered loan was originated. Financial Institution A reports the loan as an origination.

6. *Repurchased loans.* When a covered loan that a financial institution initially originated and sold to a secondary market entity is repurchased by the originating financial institution within the same calendar year as it was originated, the originating financial institution should report it as not sold under § 1003.4(a)(11), and the purchasing entity, if a financial institution, should not report it as purchased. However, if the repurchase happens in a subsequent calendar year, the purchase and repurchase, reported as a purchase, should be reported in their respective calendar years. If a financial institution is required to report on a quarterly basis under § 1003.5(a)(1)(ii) and it originates and repurchases a covered loan in different quarters of the same calendar year, in its submission for the quarter during which it repurchased the covered loan it should update its previous submission to remove the reported sale of the covered loan to the financial institution from which it repurchased the covered loan. If a financial institution is required to report on a quarterly basis under § 1003.5(a)(1)(ii) and it purchases a covered loan from the originating institution and sells the covered loan back to the originating financial institution in different quarters of the same calendar year, in its submission for the quarter during which it sold the covered loan back to the originating financial institution it should update its previous submission to delete the reported purchase. The following scenarios illustrate if and when a purchase or repurchase is reported:

i. Financial Institution A originates covered loan 001 in year one and sells it to Financial Institution B in year one. Later in year one, Financial Institution B requires Financial Institution A to repurchase covered loan 001. Financial Institution A reports the origination of covered loan 001 in year one and does not report the sale of covered loan 001 or the repurchase of covered loan 001. Financial Institution B does not report the purchase of covered loan 001 in year one.

ii. Financial Institution A originates covered loan 001 in year 1 and sells it to Financial Institution B in year one. In year two, Financial Institution B requires Financial Institution A to repurchase covered loan 001. Financial Institution A reports the origination and sale of covered loan 001 in year one and the repurchase, reported as a purchase, of covered loan 001 in year two. Financial Institution B reports the purchase of covered loan 001 in year one.

iii. Financial Institution A originates covered loan 001 in year one and sells it to Financial Institution B in year two. In year two, Financial Institution B requires Financial Institution A to repurchase covered loan 001. Financial Institution A reports the origination of covered loan 001 in year one and the repurchase, reported as a purchase, of covered loan 001 in year two but does not report the sale of covered loan 001 in year two. Financial Institution B reports the purchase and the sale of covered loan 001 in year two.

Paragraph 4(a)(1)(i).

1. *ULI—uniqueness.* Section 1003.4(a)(1)(i)(B)(*2*) requires a financial institution that assigns a ULI to ensure that the character sequence it assigns is unique within the institution. Only one ULI should be assigned to any particular application or covered loan, and each ULI should correspond to a single application and ensuing loan in the case that the application is approved and a loan is originated. A financial institution shall use a ULI that was reported previously to refer only to the same loan or application for which the ULI was used previously or a loan that ensues from an application for which the ULI was used previously. For example, if a loan origination was previously reported under this part with a ULI, a financial institution would report the later purchase of the loan using the same ULI. A financial institution may not, however, report an application for a covered loan in 2030 using a ULI that was reported for a covered loan that was originated in 2020. Similarly, refinancings or applications for refinancing should be assigned a different ULI than the loan that is being refinanced. A financial institution with multiple branches must ensure that its branches do not use a single ULI to refer to multiple covered loans or applications.

2. *ULI—privacy.* Section 1003.4(a)(1)(i)(B)(*3*) prohibits a financial institution from including information that could be used to directly identify the applicant or borrower in the identifier that it assigns for the application or covered loan of the applicant or borrower. Information that could be used to directly identify the applicant or borrower includes but is not limited to the applicant's or borrower's name, date of birth, Social Security number, official government-issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number.

Paragraph 4(a)(1)(ii).

1. *Application date—consistency.* Section 1003.4(a)(1)(ii) requires that in reporting the date of application, a financial institution report the date it received the application or the date shown on the application form. Although a financial institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans).

2. *Application date—indirect application.* For an application that was not submitted directly to the financial institution, the institution may report the date the application was received by the party who initially received the application, the date the application was received by the institution, or the date shown on the application. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans).

3. *Application date—reinstated application.* If, within the same calendar year, an applicant asks a financial institution to reinstate a counteroffer that the applicant previously did not accept (or asks the institution to reconsider an application that was denied, withdrawn, or closed for incompleteness), the institution may treat that request as the continuation of the earlier transaction or as a new transaction. If the institution treats the request for reinstatement or reconsideration as a new transaction, it reports the date of the request as the application date.

4. *Application—year action taken.* A financial institution must report an application as occurring in the calendar year in which the institution takes final action on the application.

Paragraph 4(a)(3).

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2. *Purpose—multiple-purpose loan.* Section 1003.4(a)(3) requires a financial institution to report the purpose of a covered loan or application and also specifies the order of importance if a covered loan or application is for more than one purpose. If a covered loan is a home purchase loan as well as a home improvement loan or a refinancing, § 1003.4(a)(3) requires the institution to report the loan as a home purchase loan. If a covered loan is a home improvement loan as well as a refinancing, but the covered loan is not a home purchase loan, § 1003.4(a)(3) requires the institution to report the covered loan as a home improvement loan. If a covered loan is a refinancing as well as for another purpose, such as for the purpose of paying educational expenses, but the covered loan is not a home purchase loan or a home improvement loan, § 1003.4(a)(3) requires the institution to report the covered loan as a refinancing.

3. *Purpose—other.* If a covered loan is not, or an application is not for, a home purchase loan, a home improvement loan, or a refinancing, § 1003.4(a)(3) requires a financial institution to report the covered loan or application as for a purpose other than home purchase, home improvement, or refinancing. For example, if a covered loan is for the purpose of paying educational expenses, the financial institution complies with § 1003.4(a)(3) by reporting the covered loan as for a purpose other than home purchase, home improvement, or refinancing.

Paragraph 4(a)(5).

1. *Modular homes.* Covered loans or applications related to modular homes should be reported with a construction method of site built, regardless of whether they are on-frame or off-frame modular homes. Modular homes comply with local or other recognized buildings codes rather than standards established by the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401 *et seq.* Modular homes are not required to have HUD Certification Labels under 24 CFR 3280.11 or data plates under 24 CFR 3280.5. Modular homes may have a certification from a State licensing agency that documents compliance with State or other applicable building codes. On-frame modular homes are constructed on permanent metal chassis similar to those used in manufactured homes. The chassis are not removed on site and are secured to the foundation. Off-frame modular homes typically have floor construction similar to the construction of other site built homes, and the construction typically includes wooden floor joists and does not include permanent metal chassis.

2. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

Paragraph 4(a)(6).

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2. *Principal residence.* Section 1003.4(a)(6) requires a financial institution to identify whether the property to which the covered loan or application relates is or will be used as a residence that the applicant or borrower physically occupies and uses, or will occupy and use, as his or her principal residence. For purposes of § 1003.4(a)(6) an applicant or borrower can have only one principal residence at a time. Thus, a vacation or other second home would not be a principal residence. However, if an applicant or borrower buys or builds a new dwelling that will become the applicant's or borrower's principal residence within a year or upon the completion of construction, the new dwelling is considered the principal residence for purposes of applying this definition to a particular transaction.

3. *Second residences.* Section 1003.4(a)(6) requires a financial institution to identify whether the property to which the loan or application relates is or will be used as a second residence. For purposes of § 1003.4(a)(6), a property is an applicant's or borrower's second residence if the property is or will be occupied by the applicant or borrower for a portion of the year and is not the applicant's or borrower's principal residence. For example, if a person purchases a property, occupies the property for a portion of the year, and rents the property for the remainder of the year, the property is a second residence for purposes of § 1003.4(a)(6). Similarly, if a couple occupies a property near their place of employment on weekdays, but the couple returns to their principal residence on weekends, the property near the couple's place of employment is a second residence for purposes of § 1003.4(a)(6).

4. *Investment properties.* Section 1003.4(a)(6) requires a financial institution to identify whether the property to which the covered loan or application relates is or will be used as an investment property. For purposes of § 1003.4(a)(6), a property is an investment property if the owner does not occupy the property. For example, if a person purchases a property, does not occupy the property, and generates income by renting the property, the property is an investment property for purposes of § 1003.4(a)(6). Similarly, if a person purchases a property, does not occupy the property, and does not generate income by renting the property, but intends to generate income by selling the property at some point in time, the property is an investment property for purposes of § 1003.4(a)(6). Section 1003.4(a)(6) requires a financial institution to identify a property as an investment property if the owner does not occupy the property, even if the owner does not consider the property as owned for investment purposes. For example, if a corporation purchases a property that is a dwelling under § 1003.2(f), that it does not occupy, and that is for the use of its employees, the property is an investment property for purposes of § 1003.4(a)(6), even if the corporation considers the property as owned for business purposes rather than investment purposes, does not generate income by renting the property, and does not intend to generate income by selling the property at some point in time.

5. *Multiple properties.* See comment 4(a)(9)-2 regarding transactions involving multiple properties with more than one property taken as security.

Paragraph 4(a)(7).

1. *Covered loan amount—counteroffer.* If an applicant accepts a counteroffer for an amount different from the amount for which the applicant applied, the financial institution reports the covered loan amount granted. If an applicant does not accept a counteroffer or fails to respond, the institution reports the amount initially requested.

2. *Covered loan amount—application denied or withdrawn.* For an application that was denied or withdrawn, a financial institution reports the amount for which the applicant applied.

3. *Covered loan amount—multiple-purpose loan.* A financial institution reports the entire amount of the covered loan, even if only a

part of the proceeds is intended for home purchase or home improvement.

4. *Covered loan amount—open-end line of credit.* A financial institution reports the entire amount of credit available to the borrower under the terms of the plan.

5. *Covered loan amount—refinancing.* For a refinancing, a financial institution reports the amount of credit extended under the terms of the new legal obligation.

6. *Covered loan amount—home improvement loan.* A financial institution reports the entire amount of a home improvement loan, even if only a part of the proceeds is intended for home improvement.

Paragraph 4(a)(8).

1. *Action taken—counteroffers.* If a financial institution makes a counteroffer to lend on terms different from the applicant's initial request (for example, for a shorter loan maturity or in a different amount) and the applicant does not accept the counteroffer or fails to respond, the institution reports the action taken as a denial on the original terms requested by the applicant.

2. *Action taken—rescinded transactions.* If a borrower rescinds a transaction after closing and before a financial institution is required to submit its loan application register containing the information for the transaction under § 1003.5(a), the institution reports the transaction as an application that was approved but not accepted.

3. *Action taken—purchased loans.* An institution reports the covered loans that it purchased during the calendar year, and does not report the covered loans that it declined to purchase, unless, as discussed in comment 4(a)–4.i, the institution reviewed the application prior to closing and reports it as an origination.

4. *Action taken—repurchased covered loans.* See comment 4(a)–6 regarding reporting requirements when a covered loan is repurchased by the originating financial institution.

5. *Action taken—conditional approvals.* If an institution issues an approval other than a commitment pursuant to a preapproval program as defined under § 1003.2(b)(2), and that approval is subject to the applicant meeting certain conditions, the institution reports the action taken as provided below dependent on whether the conditions are solely customary commitment or closing conditions or if the conditions include any underwriting or creditworthiness conditions.

i. *Action taken examples.* If the approval is conditioned on satisfying underwriting or creditworthiness conditions and they are not met, the institution reports the action taken as a denial. If, however, the conditions involve submitting additional information about creditworthiness that the institution needs to make the credit decision, and the institution has sent a written notice of incompleteness under Regulation B, 12 CFR 1002.9(c)(2) and the applicant did not respond within the period of time specified in the notice, the institution reports the action taken as file closed for incompleteness. If the conditions are solely customary commitment or closing conditions and the conditions are not met, the institution reports the action taken as approved but not accepted. If all the conditions (underwriting, creditworthiness, or customary commitment or closing conditions) are satisfied and the institution agrees to extend credit but the covered loan is not originated, the institution reports the action taken as application approved but not accepted. If the applicant expressly withdraws before satisfying all underwriting or creditworthiness conditions and before the institution denies the application or closes the file for incompleteness, the institution reports the action taken as application withdrawn. If all underwriting and creditworthiness conditions have been met, and the conditions are solely customary commitment or closing conditions and the applicant expressly withdraws before the covered loan is originated, the institution reports the action taken as application approved but not accepted.

ii. *Customary commitment or closing conditions.* Customary commitment or closing conditions include, for example: A clear-title requirement, an acceptable property survey, acceptable title insurance binder, clear termite inspection, a subordination agreement from another lienholder, and, where the applicant plans to use the proceeds from the sale of one home to purchase another, a settlement statement showing adequate proceeds from the sale.

iii. *Underwriting or creditworthiness conditions.* Underwriting or creditworthiness conditions include, for example: Conditions that constitute a counter-offer, such as a demand for a higher down-payment; satisfactory debt-to-income or loan-to-value ratios, determination of need for private mortgage insurance, or a satisfactory appraisal requirement; or verification or confirmation, in whatever form the institution requires, that the applicant meets underwriting conditions concerning applicant creditworthiness, including documentation or verification of income or assets.

6. *Action taken—transactions involving more than one institution.* A financial institution reports the action taken on a covered loan or application involving more than one institution in accordance with the instructions in comment 4(a)–4.

7. *Action taken date—approved but not accepted.* For a covered loan approved by an institution but not accepted by the applicant, the institution reports any reasonable date, such as the approval date, the deadline for accepting the offer, or the date the file was closed. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of covered loans).

8. *Action taken date—originations.* For covered loan originations, an institution generally reports the settlement or closing date. For covered loan originations that an institution acquires from a party that initially received the application, the institution reports either the settlement or closing date, or the date the institution acquired the covered loan from the party that initially received the application. If the disbursement of funds takes place on a date later than the settlement or closing date, the institution may use the date of disbursement. For a construction/permanent covered loan, the institution reports either the settlement or closing date, or the date the covered loan converts to the permanent financing. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of covered loans). Notwithstanding this flexibility regarding the use of the closing date in connection with reporting the date action was taken, the institution must report the origination as occurring in the year in which the origination goes to closing.

9. *Action taken—pending applications.* An institution does not report any covered loan application still pending at the end of the calendar year; it reports that application on its loan application register for the year in which final action is taken.

Paragraph 4(a)(9).

1. *Multiple properties with one property taken as security.* If a covered loan is related to more than one property, but only one property is taken as or, in the case of an application, proposed to be taken as security, a financial institution reports the information required by § 1003.4(a)(9) for the property taken as or, in the case of an application, proposed to be taken as security. A financial institution does not report the information required by § 1003.4(a)(9) for the property or properties related to the loan that are not taken as, or in the case of an application, proposed to be taken as security. For example, if a covered loan is secured by property A, and the proceeds are used to purchase or rehabilitate property B, the institution reports the information required by § 1003.4(a)(9) for property A and does not report the information required by § 1003.4(a)(9) for property B.

2. *Multiple properties with more than one property taken as security.* If more than one property is taken or, in the case of an application, proposed to be taken as security for a single covered loan, a financial institution may report one of the properties in a single entry on its loan application register or report all of the properties using multiple entries on its loan application register. If a financial institution opts to report all of the properties, the multiple entries should be identical except for the required information that relates to the property identified in § 1003.4(a)(9). If an institution is required to report specific information about the property identified in § 1003.4(a)(9), the institution should report the information that relates to the property identified in § 1003.4(a)(9) in that entry. For example, Financial Institution A originated a covered loan that is secured by both property A and property B. Financial Institution A may report the loan as one entry on its loan application register, reporting the information required by § 1003.4(a)(9) for either property A or property B. Financial Institution A may also report the loan as two entries on its loan application register. If Financial Institution A elects to report the loan as two entries, in the first entry, Financial Institution A reports the

information required by § 1003.4(a)(9) for property A and the information required by § 1003.4(a)(5), (6), (14), (29), and (30) related to property A. In the second entry, Financial Institution A reports the information required by § 1003.4(a)(9) for property B and the information required by § 1003.4(a)(5), (6), (14), (29), and (30) related to property B. For aspects of the entries that are not specific to the property identified in § 1003.4(a)(9) (*i.e.,* § 1003.4(a)(1) through (4), (7), (8), (10) through (13), (15) through (28), (31) through (39)), Financial Institution A reports the same information in both entries.

3. *Multifamily dwellings.* A single multifamily dwelling may have more than one postal address. For example, three apartment buildings, each with a different street address, comprise a single multifamily dwelling that secures a covered loan. For the purposes of § 1003.4(a)(9), a financial institution reports the information required by § 1003.4(a)(9) in the same manner described in comment 4(a)(9)–2. As discussed below in comments 4(a)(31)–1 and 4(a)(32)–4, regardless of whether the financial institution elects to report the covered loan using one or more than one entry, the information required by § 1003.4(a)(31) and (32) should refer to the total number of applicable units in the property or properties securing or, in the case of an application, proposed to secure the covered loan.

4. *Loans purchased from another institution.* The requirement to report the property location information required by § 1003.4(a)(9) applies not only to applications and originations but also to covered loans purchased from another institution.

5. *Manufactured home.* If the site of a manufactured home has not been identified, a financial institution reports the transaction on its loan application register using ''not applicable'' in each of the fields required by § 1003.4(a)(9).

Paragraph 4(a)(10)(i).

1. *Applicant data—completion by applicant.* A financial institution reports the government monitoring information as provided by the applicant. For example, if an applicant checks the ''Asian'' box the institution reports using the ''Asian'' Code. With respect to age, § 1003.4(a)(10)(i) requires that a financial institution report the age of the applicant or borrower, as of the application date under § 1003.4(a)(1)(ii), in number of years as derived from the date of birth as shown on the application form. For example, if an applicant indicates a date of birth of 01/15/1970 on the application form that the financial institution receives on 01/15/2014, the institution reports 44 as the age of the applicant.

2. *Applicant data—completion by financial institution.* If an applicant fails to provide the requested information for an application taken in person, the financial institution reports the data on the basis of visual observation or surname, other than the age of the applicant which the financial institution reports in number of years as derived from the date of birth as shown on the application form and the application date under § 1003.4(a)(1)(ii).

3. *Applicant data—application completed in person.* When an applicant meets in person with a financial institution to complete an application that was begun by mail, internet, or telephone, the financial institution must request the government monitoring information. If the meeting occurs after the application process is complete, for example, at closing or account opening, the financial institution is not required to obtain government monitoring information.

4. *Applicant data—joint applicant.* A joint applicant may provide the government monitoring information on behalf of an absent joint applicant. If the information is not provided, the financial institution reports using the Code for ''information not provided by applicant in mail, internet, or telephone application.''

5. *Applicant data—video and other electronic-application processes.* A financial institution that accepts applications through electronic media with a video component treats the applications as taken in person and collects the information about the ethnicity, race, and sex of applicants. A financial institution that accepts applications through electronic media without a video component (for example, the internet or facsimile) treats the applications as accepted by mail.

Paragraph 4(a)(10)(ii).

1. *Income data—income relied on.* When an institution evaluates income as part of a credit decision, it reports the gross annual income relied on in making the credit decision. For example, if an institution relies on an applicant's salary to compute a debt-to-income ratio but also relies on the applicant's annual bonus to evaluate creditworthiness, the institution reports the salary and the bonus to the extent relied upon. However, if an institution relies on an applicant's income, but does not rely on certain income from an applicant in its determination, it does not report that portion of income not relied on. For example, the income relied on would not include commission income if the institution, pursuant to lender and investor guidelines, does not rely on an applicant's commission income because it has been earned for less than 12 months. Similarly, if an institution relies on the income of a cosigner to evaluate creditworthiness, the institution includes this income to the extent relied upon. But an institution does not include the income of a guarantor who is only secondarily liable.

2. *Income data—co-applicant.* If two persons jointly apply for a covered loan and both list income on the application, but the institution relies only on the income of one applicant in computing ratios and in evaluating creditworthiness, the institution reports only the income relied on.

3. *Income data—loan to employee.* An institution may report ''NA'' in the income field for covered loans to or applications from its employees to protect their privacy, even though the institution relied on their income in making its credit decisions.

4. *Income data—assets.* An institution does not include as income amounts considered in making a credit decision based on factors that an institution relies on in addition to income, such as amounts derived from annuitization or depletion of an applicant's remaining assets.

5. *Income data—collected income.* An institution reports income information collected as part of the application process if the application is denied or withdrawn or the file is closed for incompleteness before a credit decision requiring consideration of income is made. For example, if an institution receives an application that includes an applicant's self-reported income, but the application is withdrawn before a credit decision requiring consideration of income is made, the institution reports the income provided on the application.

6. *Income data—credit decision not requiring consideration of income.* An institution does not report income if the application did not or would not have required a credit decision requiring consideration of income under the policies and practices of the financial institution. For example, if the institution does not consider income for a streamlined refinance program but obtained income information submitted by the borrower, the institution reports neither gross annual income relied on nor gross annual income collected.

Paragraph 4(a)(11).

1. *Type of purchaser—loan-participation interests sold to more than one entity.* A financial institution that originates a covered loan, and then sells it to more than one entity, reports the ''type of purchaser'' based on the entity purchasing the greatest interest, if any. For purposes of § 1003.4(a)(11), if a financial institution sells a covered loan but retains a majority interest in that loan, it does not report the sale.

2. *Type of purchaser—swapped covered loans.* Covered loans ''swapped'' for mortgage-backed securities are to be treated as sales; the purchaser is the type of entity receiving the covered loans that are swapped.

3. *Type of purchaser—affiliate institution.* For purposes of § 1003.4(a)(11), the term ''affiliate'' means any company that controls, is controlled by, or is under common control with, another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*).

4. *Type of purchaser—private securitizations.* A financial institution that knows or reasonably believes that the covered loan it is selling will be securitized by the institution purchasing the covered loan, other than by one of the government-sponsored enterprises, reports the purchasing entity type as a private securitization regardless of the type or affiliation of the purchasing entity. Knowledge or reasonable belief could, for example, be based on the purchase agreement or other related documents, the financial institution's previous transactions with the purchaser, or the purchaser's role as a securitizer (such as an investment bank). If a financial institution selling a covered loan does not know or reasonably believe that the purchaser will securitize the loan, and the seller knows that the purchaser frequently holds or disposes of loans by means other than securitization, then the financial institution should report the covered loan as purchased by, as appropriate, a commercial bank, savings bank, savings association, life insurance company, credit union, mortgage bank, finance company, affiliate institution, or other type of purchaser.

5. *Type of purchaser—mortgage bank.* For purposes of § 1003.4(a)(11), a mortgage bank,

often referred to as a mortgage company, means an institution that purchases covered loans and typically originates such loans. A mortgage bank might be an affiliate or a subsidiary of a bank holding company or thrift holding company, or it might be an independent mortgage company. In either case, a financial institution reports the purchasing entity type as a mortgage bank, unless the mortgage bank is an affiliate of the seller institution, in which case the seller institution should report the loan as purchased by an affiliate institution.

6. *Purchases by subsidiaries.* A financial institution that sells a covered loan to its subsidiary that is a commercial bank, savings bank, or savings association, should report the covered loan as purchased by a commercial bank, savings bank, or savings association. A financial institution that sells a covered loan to its subsidiary that is a life insurance company, credit union, mortgage bank, or finance company, should report the covered loan as purchased by a life insurance company, credit union, mortgage bank, or finance company. If the subsidiary that purchases the covered loan is not a commercial bank, savings bank, savings association, life insurance company, credit union, mortgage bank, or finance company, the seller institution should report the loan as purchased by other type of purchaser. The financial institution should report the covered loan as purchased by an affiliate institution when the subsidiary is an affiliate of the seller institution.

7. *Type of purchaser—bank holding company or thrift holding company.* When a financial institution sells a covered loan to a bank holding company or thrift holding company (rather than to one of its subsidiaries), it should report the loan as purchased by other type of purchaser, unless the bank holding company or thrift holding company is an affiliate of the seller institution, in which case the seller institution should report the loan as purchased by an affiliate institution.

8. *Repurchased covered loans.* See comment 4(a)–6 regarding reporting requirements when a covered loan is repurchased by the originating financial institution.

Paragraph 4(a)(12).

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2. *Bureau tables.* The Bureau publishes on the FFIEC's Web site (*http://www.ffiec.gov/hmda*), in tables entitled ''Average Prime Offer Rates-Fixed'' and ''Average Prime Offer Rates-Adjustable,'' current and historic average prime offer rates for a wide variety of closed-end transaction types. The Bureau calculates an annual percentage rate, consistent with Regulation Z (see 12 CFR 1026.22 and part 1026, appendix J), for each transaction type for which pricing terms are available from the survey described in comment 4(a)(12)–1. The Bureau uses loan pricing terms available in the survey and other information to estimate annual percentage rates for other types of transactions for which direct survey data are not available. The Bureau publishes on the FFIEC's Web site the methodology it uses to arrive at these estimates. A financial institution may either use the average prime offer rates published by the Bureau or may determine average prime offer rates itself by employing the methodology published on the FFIEC Web site. A financial institution that determines average prime offer rates itself, however, is responsible for correctly determining the rates in accordance with the published methodology.

3. *Rate spread calculation—annual percentage rate.* The requirements of § 1003.4(a)(12)(i) refer to the covered loan's annual percentage rate. A financial institution complies with § 1003.4(a)(12)(i) by relying on the annual percentage rate for the covered loan, as calculated and disclosed pursuant to Regulation Z, 12 CFR 1026.18 (closed-end credit transactions) or 1026.40 (open-end credit plans), as applicable.

4. *Rate spread calculation—comparable transaction.* The rate spread calculation in § 1003.4(a)(12)(i) is defined by reference to a comparable transaction, which is determined according to the covered loan's amortization type (*i.e.,* fixed- or variable-rate) and loan term. For open-end covered loans, § 1003.4(a)(12)(i) requires a financial institution to identify the most closely comparable closed-end transaction. The tables of average prime offer rates published by the Bureau (*see* comment 4(a)(12)–2) provide additional detail about how to identify the comparable transaction.

i. *Fixed-rate transactions.* For fixed-rate covered loans, the term for identifying the comparable transaction is the transaction's maturity (*i.e.*, the period until the last payment will be due under the loan contract or open-end credit agreement). If an open-end credit plan has a fixed rate but no definite plan length, a financial institution complies with § 1003.4(a)(12)(i) by using a 30-year fixed-rate loan as the most closely comparable closed-end transaction. Financial institutions may refer to the table on the FFIEC Web site entitled ''Average Prime Offer Rates-Fixed'' when identifying a comparable fixed-rate transaction.

ii. *Variable-rate transactions.* For variable-rate covered loans, the term for identifying the comparable transaction is the initial, fixed-rate period (*i.e.,* the period until the first scheduled rate adjustment). For example, five years is the relevant term for a variable-rate transaction with a five-year, fixed-rate introductory period that is amortized over thirty years. Financial institutions may refer to the table on the FFIEC Web site entitled ''Average Prime Offer Rates-Variable'' when identifying a comparable variable-rate transaction. If an open-end credit plan has a variable rate and an optional, fixed-rate feature, a financial institution uses the rate table for variable-rate transactions.

iii. *Term not in whole years.* When a covered loan's term to maturity (or, for a variable-rate transaction, the initial fixed-rate period) is not in whole years, the financial institution uses the number of whole years closest to the actual loan term or, if the actual loan term is exactly halfway between two whole years, by using the shorter loan term. For example, for a loan term of ten years and three months, the relevant term is ten years; for a loan term of ten years and nine months, the relevant term is 11 years; for a loan term of ten years and six months, the relevant term is ten years. If a loan term includes an odd number of days, in addition to an odd number of months, the financial institution rounds to the nearest whole month, or rounds down if the number of odd days is exactly halfway between two months. The financial institution rounds to one year any covered loan with a term shorter than six months, including variable-rate covered loans with no initial, fixed-rate periods. For example, if an open-end covered loan has a rate that varies according to an index plus a margin, with no introductory, fixed-rate period, the transaction term is one year.

iv. *Amortization period longer than loan term.* If the amortization period of a covered loan is longer than the term of the transaction to maturity, § 1003.4(a)(12)(i) requires a financial institution to use the loan term to determine the applicable average prime offer rate. For example, assume a financial institution originates a closed-end, fixed-rate loan that has a term to maturity of five years and a thirty-year amortization period that results in a balloon payment. The financial institution complies with § 1003.4(a)(12)(i) by using the five-year loan term.

5. *Rate-set date.* The relevant date to use to determine the average prime offer rate for a comparable transaction is the date on which the covered loan's interest rate was set by the financial institution for the final time before closing or account opening.

i. *Rate-lock agreement.* If an interest rate is set pursuant to a ''lock-in'' agreement between the financial institution and the borrower, then the date on which the agreement fixes the interest rate is the date the rate was set. Except as provided in comment 4(a)(12)–5.ii, if a rate is reset after a lock-in agreement is executed (for example, because the borrower exercises a float-down option or the agreement expires), then the relevant date is the date the financial institution exercises discretion in setting the rate for the final time before closing or account opening. The same rule applies when a rate-lock agreement is extended and the rate is reset at the same rate, regardless of whether market rates have increased, decreased, or remained the same since the initial rate was set. If no lock-in agreement is executed, then the relevant date is the date on which the institution sets the rate for the final time before closing or account opening.

ii. *Change in loan program.* If a financial institution issues a rate-lock commitment under one loan program, the borrower subsequently changes to another program that is subject to different pricing terms, and the financial institution changes the rate promised to the borrower under the rate-lock commitment accordingly, the rate-set date is the date of the program change. However, if the financial institution changes the promised rate to the rate that would have been available to the borrower under the new program on the date of the original rate-lock commitment, then that is the date the rate is set, provided the financial institution consistently follows that practice in all such cases or the original rate-lock agreement so provided. For example, assume that a borrower locks a rate of 2.5 percent on June 1 for a 30-year, variable-rate loan with a 5-

year, fixed-rate introductory period. On June 15, the borrower decides to switch to a 30-year, fixed-rate loan, and the rate available to the borrower for that product on June 15 is 4.0 percent. On June 1, the 30-year, fixed-rate loan would have been available to the borrower at a rate of 3.5 percent. If the financial institution offers the borrower the 3.5 percent rate (*i.e.,* the rate that would have been available to the borrower for the fixed-rate product on June 1, the date of the original rate-lock) because the original agreement so provided or because the financial institution consistently follows that practice for borrowers who change loan programs, then the financial institution should use June 1 as the rate-set date. In all other cases, the financial institution should use June 15 as the rate-set date.

iii. *Brokered loans.* When a financial institution has reporting responsibility for a covered loan that it received from a broker, as discussed in comment 4(a)–4 (*e.g.,* because the financial institution makes a credit decision prior to closing or account opening), the rate-set date is the last date the financial institution set the rate with the broker, not the date the broker set the borrower's rate.

6. *Compare the annual percentage rate to the average prime offer rate.* Section 1003.4(a)(12)(i) requires a financial institution to compare the covered loan's annual percentage rate to the most recently available average prime offer rate that was in effect for the comparable transaction as of the rate-set date. For purposes of § 1003.4(a)(12)(i), the most recently available rate means the average prime offer rate set forth in the applicable table with the most recent effective date as of the date the interest rate was set. However, § 1003.4(a)(12)(i) does not permit a financial institution to use an average prime offer rate before its effective date.

Paragraph 4(a)(14).

1. *Determining lien status for applications and covered loans originated and purchased.* i. Financial institutions are required to report lien status for covered loans they originate and purchase and applications that do not result in originations. For covered loans purchased by a financial institution, lien status is determined by reference to the best information readily available to the financial institution at the time of purchase. For covered loans that a financial institution originates and applications that do not result in originations, lien status is determined by reference to the best information readily available to the financial institution at the time final action is taken and to the financial institution's own procedures. Thus, financial institutions may rely on the title search they routinely perform as part of their underwriting procedures—for example, for home purchase loans. Regulation C does not require financial institutions to perform title searches solely to comply with HMDA reporting requirements. Financial institutions may rely on other information that is readily available to them at the time final action is taken and that they reasonably believe is accurate, such as the applicant's statement on the application or the applicant's credit report. If an application does not result in an origination and the best information readily available to the financial institution at the time final action is taken indicates that there is a mortgage on the property that would not have been paid off as part of the transaction, but the financial institution is not able to determine, based on the best information readily available to it, the exact lien priority of the loan applied for, the financial institution complies with § 1003.4(a)(14) by reporting that the property would have been secured by a second lien.

ii. Financial institutions may also consider their established procedures when determining lien status for applications that do not result in originations. For example, an applicant applies to a financial institution to refinance a $100,000 first mortgage; the applicant also has a home-equity line of credit for $20,000. If the financial institution's practice in such a case is to ensure that it will have first-lien position—through a subordination agreement with the holder of the mortgage on the home-equity line of credit—then the financial institution should report the application as an application for a first-lien covered loan.

2. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

Paragraph 4(a)(15).

1. *Credit score—relied on.* Except for purchased covered loans, § 1003.4(a)(15) requires a financial institution to report the credit score or scores relied on in making the credit decision and information about the scoring model used to generate each score. A financial institution relies on a credit score in making the credit decision if the credit score was a factor in the credit decision even if it was not a dispositive factor. For example, if a credit score is one of multiple factors in a financial institution's credit decision, the financial institution has relied on the credit score even if the financial institution denies the application because one or more underwriting requirements other than the credit score are not satisfied.

2. *Credit score—multiple credit scores.* When a financial institution obtains or creates two or more credit scores for a single applicant or borrower but relies on only one score in making the credit decision (for example, by relying on the lowest, highest, most recent, or average of all of the scores), the financial institution complies with § 1003.4(a)(15) by reporting that credit score and information about the scoring model used. When a financial institution obtains or creates two or more credit scores for an applicant or borrower and relies on multiple scores for the applicant or borrower in making the credit decision (for example, by relying on a scoring grid that considers each of the scores obtained or created for the applicant or borrower without combining the scores into a composite score), § 1003.4(a)(15) requires the financial institution to report one of the credit scores for the borrower or applicant that was relied on in making the credit decision. In choosing which credit score to report in this circumstance, a financial institution need not use the same approach for its entire HMDA submission, but it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of covered loans). In instances such as these, the financial institution should report the name and version of the credit scoring model for the score reported.

3. *Credit score—multiple applicants or borrowers.* In a transaction involving two or more applicants or borrowers for which the financial institution relies on a single credit score in making the credit decision for the transaction, the institution complies with § 1003.4(a)(15) by reporting that credit score. Otherwise, a financial institution complies with § 1003.4(a)(15) by reporting a credit score for the applicant or borrower that it relied on in making the credit decision, if any, and a credit score for the first co-applicant or co-borrower that it relied on in making the credit decision, if any. To illustrate, assume a transaction involves one applicant and one co-applicant and that the financial institution obtains or creates two credit scores for the applicant and two credit scores for the co-applicant. Assume further that the financial institution relies on the lowest, highest, most recent, or average of all of the credit scores obtained or created to make the credit decision for the transaction. The financial institution complies with § 1003.4(a)(15) by reporting that credit score and information about the scoring model used. Alternatively, assume a transaction involves one applicant and one co-applicant and that the financial institution obtains or creates three credit scores for the applicant and three credit scores for the co-applicant. Assume further that the financial institution relies on the middle credit score for the applicant and the middle credit score for the co-applicant to make the credit decision for the transaction. The financial institution complies with § 1003.4(a)(15) by reporting both the middle score for the applicant and the middle score for the co-applicant.

4. *No credit decision or credit decision made without reliance on a credit score.* If a file was closed for incompleteness or the application was withdrawn before a credit decision was made, the financial institution complies with § 1003.4(a)(15) by reporting not applicable. If a financial institution makes a credit decision without relying on a credit score for the applicant or borrower, the financial institution complies with § 1003.4(a)(15) by reporting not applicable.

Paragraph 4(a)(16).

1. *Reason(s) for denial—general.* A financial institution complies with § 1003.4(a)(16) by reporting the principal reason(s) it denied the application, indicating up to three reasons. The reasons reported must be specific and accurately describe the principal reasons the financial institution denied the application.

2. *Reason(s) for denial—other reason(s).* When a principal reason a financial institution denied the application is not provided on the list of denial reasons in appendix A, a financial institution complies with § 1003.4(a)(16) by entering ''Other'' and reporting the principal reason(s) it denied the application. If a financial institution chooses to provide the applicant the reason(s) it denied the application using the model form contained in appendix C to Regulation B (Form C–1, Sample Notice of Action Taken

and Statement of Reasons) or a similar form, the financial institution complies with § 1003.4(a)(16) by entering the ''Other'' reason(s) that were specified on the form by the financial institution. If a financial institution chooses to provide a disclosure of the applicant's right to a statement of specific reasons using the model form contained in appendix C to Regulation B (Form C–5, Sample Disclosure of Right to Request Specific Reasons for Credit Denial) or a similar form, or chooses to provide the denial reason(s) orally under Regulation B, 12 CFR 1002.9(a)(2)(ii), the financial institution complies with § 1003.4(a)(16) by entering the principal reason(s) it denied the application.

Paragraph 4(a)(21).

1. *General.* Section 1003.4(a)(21) requires a financial institution to identify the interest rate applicable to the covered loan at closing or account opening, as applicable. For covered loans subject to the disclosure requirements of Regulation Z, 12 CFR 1026.38, a financial institution complies with § 1003.4(a)(21) by identifying the interest rate as the rate disclosed pursuant to Regulation Z, 12 CFR 1026.37(b)(2). For an adjustable-rate covered loan subject to the disclosure requirements of Regulation Z, 12 CFR 1026.38, if the interest rate at closing is not known, a financial institution complies with § 1003.4(a)(21) by identifying the fully-indexed rate, which, for purposes of § 1003.4(a)(21), means the interest rate calculated using the index value and margin at the time of closing, pursuant to Regulation Z, 12 CFR 1026.37(b)(2).

Paragraph 4(a)(23).

1. *General.* For covered loans that are not reverse mortgages, § 1003.4(a)(23) requires a financial institution to report the ratio of the applicant's or borrower's total monthly debt to total monthly income (DTI ratio) relied on in making the credit decision. For example, if a financial institution calculated the applicant's or borrower's DTI ratio twice—once according to the financial institution's own requirements and once according to the requirements of a secondary market investor—and the financial institution relied on the DTI ratio calculated according to the secondary market investor's requirements in making the credit decision, § 1003.4(a)(23) requires the financial institution to report the debt-to-income ratio calculated according to the requirements of the secondary market investor.

2. *Transactions for which a debt-to-income ratio is one of multiple factors.* If a financial institution relies on a set of underwriting requirements in making a credit decision, and the requirements include the ratio of the applicant's or borrower's total monthly debt to total monthly income (DTI ratio) as one of multiple factors, § 1003.4(a)(23) requires the financial institution to report the DTI ratio considered as part of the set of underwriting requirements relied on by the financial institution. For example, if a financial institution relies on a set of underwriting requirements in making a credit decision, the requirements include the applicant's or borrower's DTI ratio as one of multiple factors, and the financial institution approves the application, the financial institution complies with § 1003.4(a)(23) by reporting the DTI ratio considered as part of the set of underwriting requirements. Similarly, if a financial institution relies on a set of underwriting requirements in making a credit decision, the requirements include the applicant's or borrower's DTI ratio as one of multiple factors, and the financial institution denies the application because an underwriting requirement other than the DTI ratio requirement is not satisfied, the financial institution complies with § 1003.4(a)(23) by reporting the DTI ratio considered as part of the set of underwriting requirements.

3. *Transactions for which no credit decision was made.* If a file was closed for incompleteness, or if an application was withdrawn before a credit decision was made, a financial institution complies with § 1003.4(a)(23) by reporting that no credit decision was made, even if the financial institution had calculated the ratio of the applicant's total monthly debt to total monthly income (DTI ratio). For example, if a file is incomplete and is so reported in accordance with § 1003.4(a)(8), the financial institution complies with § 1003.4(a)(23) by reporting that no credit decision was made, even if the financial institution had calculated the applicant's DTI ratio. Similarly, if an application was withdrawn by the applicant before a credit decision was made, the financial institution complies with § 1003.4(a)(23) by reporting that no credit decision was made, even if the financial institution had calculated the applicant's DTI ratio.

4. *Transactions for which no debt-to-income ratio is relied on.* Section 1003.4(a)(23) does not require a financial institution to calculate the ratio of an applicant's or borrower's total monthly debt to total monthly income (DTI ratio), nor does it require a financial institution to rely on an applicant's or borrower's DTI ratio in making a credit decision. If a financial institution makes a credit decision without relying on the applicant's or borrower's DTI ratio, the financial institution complies with § 1003.4(a)(23) by reporting that no DTI ratio was relied on in connection with the credit decision.

Paragraph 4(a)(24).

1. *General.* Section 1003.4(a)(24) requires a financial institution to report the ratio of the total amount of debt secured by the property to the property value identified under § 1003.4(a)(28). If a financial institution makes a credit decision without calculating the ratio of the total amount of debt secured by the property to the value of the property, the financial institution complies with § 1003.4(a)(24) by reporting that this ratio was not calculated in connection with the credit decision.

2. *Calculation for transactions that are home-equity lines of credit.* For home-equity lines of credit, as defined under § 1003.2(h), § 1003.4(a)(24)(i) requires a financial institution to calculate the ratio of the total amount of debt secured by the property to the value of the property by including the full amount of any home-equity line of credit, whether drawn or undrawn. For example, assume that an applicant applies for a home-equity line of credit to be secured by a subordinate lien on the property, where the initial draw amount will be $10,000 and the full amount of credit available under the line of credit will be $20,000. Assume further that a home-equity line of credit with an amount outstanding of $23,000, and in which the full amount of credit available under the line of credit is $25,000, is secured by a first lien on the property; that a loan with a $10,000 unpaid principal balance that is not a home-equity line of credit is secured by a subordinate-lien on the property; and that no other debts are secured by the property. The financial institution complies with § 1003.4(a)(24)(i) by dividing $55,000, representing the $45,000 amount of credit that will be available to the applicant under the home-equity lines of credit plus the $10,000 unpaid principal balance of the subordinate-lien loan, by the value of the property identified under § 1003.4(a)(28).

3. *Calculation for transactions that are not home-equity lines of credit.* For transactions that are not home-equity lines of credit, as defined under § 1003.2(h), § 1003.4(a)(24)(ii) requires a financial institution to calculate the ratio of the total amount of debt secured by the property to the value of the property by including the amounts outstanding under home-equity lines of credit secured by the property. For example, assume that an applicant applies for a $10,000 loan that is not a home-equity line of credit to be secured by a subordinate lien on the property. Assume further that a home-equity line of credit with an amount outstanding of $10,000, and in which the full amount of credit available under the line of credit is $20,000, is secured by a subordinate lien on the property; that a home-equity line of credit with an amount outstanding of $23,000, and in which the full amount of credit available under the line of credit is $25,000, is secured by a first lien on the property; and that no other debts are secured by the property. The financial institution complies with § 1003.4(a)(24)(ii) by dividing $43,000, representing the $33,000 amount of credit outstanding under the home-equity lines of credit plus the $10,000 subordinate-lien loan for which the applicant is applying, by the value of the property identified under § 1003.4(a)(28).

Paragraph 4(a)(25).

1. *Amortization and maturity.* For a fully amortizing covered loan, the number of months after which the legal obligation matures is the number of months in the amortization schedule, ending with the final payment. Some covered loans do not fully amortize during the maturity term, such as covered loans with a balloon payment; such loans should still be reported using the maturity term rather than the amortization term, even in the case of covered loans that mature before fully amortizing but have reset options. For example, a 30-year fully amortizing covered loan would be reported with a term of ''360,'' while a five year balloon covered loan would be reported with a loan term of ''60.''

2. *Non-monthly repayment periods.* If a covered loan or application includes a schedule with repayment periods measured in a unit of time other than months, the financial institution should report the

covered loan or application term using an equivalent number of whole months without regard for any remainder.

Paragraph 4(a)(26).

1. *Types of introductory rates.* Section 1003.4(a)(26) requires a financial institution to report the number of months from loan origination until the first date the interest rate may change. For example, assume a home-equity line of credit contains an introductory or ''teaser'' interest rate for two months after the date of account opening, after which the interest rate may adjust. In this example, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as ''2.'' Section 1003.4(a)(26) requires a financial institution to report the number of months based on when the first interest rate adjustment may occur, even if an interest rate adjustment is not required to occur, or if the rates that will apply or the periods for which they will apply, are not known at loan origination. For example, if a closed-end mortgage loan with a 30-year term is an adjustable rate product with an introductory interest rate for the first 60 months, after which the interest rate is permitted to vary, but not required to vary, according to the terms of an index rate, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as ''60.'' Similarly, if a closed-end mortgage loan with a 30-year term is a step rate product with an introductory interest rate for the first 24 months, after which the interest rate will increase to a different known interest rate for the next 36 months, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as ''24.''

2. *Preferred rates.* Section 1003.4(a)(26) does not requiring reporting of introductory interest rate periods based on preferred rates unless the terms of the legal obligation provide that the preferred rate will expire at a defined future date. Preferred rates include terms of the legal obligation which provide that the initial underlying rate is fixed but will increase upon the occurrence of some future event, such as an employee leaving the employ of the financial institution, the borrower closing an existing deposit account with the financial institution, or the borrower revoking an election to make automated payments.

Paragraph 4(a)(27).

1. *General.* Section 1003.4(a)(27) requires reporting of contractual features that would allow payments other than fully amortizing payments. Section 1003.4(a)(27) defines the contractual features by reference to Regulation Z, 12 CFR part 1026, but without regard to whether the covered loan is credit for personal, family, or household purposes, without regard to whether the person to whom credit is extended is a consumer, without regard to whether the property is a dwelling, and without regard to whether the person extending credit is a creditor, as those terms are used in Regulation Z. For example, assume that a financial institution originates a business-purpose transaction pursuant to Regulation Z, 12 CFR 1026.3(a)(1), to finance a multifamily dwelling that is not a dwelling under Regulation Z, 12 CFR 1026.2(a)(19), but that qualifies as a covered loan pursuant to § 1003.2(e). The transaction is secured by a lien on a dwelling pursuant to § 1003.2(f) and has a balloon payment as defined by Regulation Z, 12 CFR 1026.18(s)(5)(i), such as a home purchase loan for a multifamily dwelling that has a balloon payment at the end of the loan term. In this example, the financial institution should report the business-purpose transaction as having a balloon payment under § 1003.4(a)(27)(i), assuming the other requirements of this part are met. Aside from these distinctions, financial institutions may rely on the definitions and related commentary provided in the appropriate sections of Regulation Z referenced in § 1003.4(a)(27) of this part and in determining whether the contractual feature should be reported.

Paragraph 4(a)(28).

1. *Property value relied on.* A financial institution reports the property value relied on in making the credit decision. For example, if the institution relies on an appraisal or other valuation for the property in calculating the loan-to-value ratio, it reports that value; if the institution relies on the purchase price of the property in calculating the loan-to-value ratio, it reports that value.

2. *Multiple property values.* When a financial institution obtains two or more valuations of the property securing or proposed to secure the covered loan, the financial institution complies with § 1003.4(a)(28) by reporting the value relied on in making the credit decision. For example, when a financial institution obtains two appraisals or other valuations with different values for the property, it reports the value relied on in making the credit decision.

Paragraph 4(a)(29).

1. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

Paragraph 4(a)(30).

1. *Indirect land ownership.* Indirect land ownership can occur when the applicant is or will be a member of a resident-owned community structured as a housing cooperative in which the occupants own an entity that holds the underlying land of the manufactured home community. In such communities, the applicant may still pay rent for the lot on which his or her manufactured home is or will be located and have a lease, but the property interest type for such an arrangement should be reported as indirect ownership if the applicant is or will be a member of the cooperative that owns the underlying land of the manufactured home. If an applicant resides or will reside in such a community but is not a member, the property interest type should be reported as a paid leasehold.

2. *Leasehold interest.* A leasehold interest could be formalized in a lease with a defined term and specified rent payments, or could arise as a tenancy at will through permission of a land owner without any written, formal arrangement. For example, assume a borrower will locate the manufactured home in a manufactured home park, has a written lease for a lot in that park, and the lease specifies rent payments. In this example, a financial institution complies with § 1003.4(a)(30) by reporting a paid leasehold. However, if instead the borrower will locate the manufactured home on land owned by a family member without a written lease and with no agreement as to rent payments, a financial institution complies with § 1003.4(a)(30) by reporting an unpaid leasehold.

3. *Multiple properties.* See comment 4(a)(9)–2 regarding transactions involving multiple properties with more than one property taken as security.

Paragraph 4(a)(31).

1. *Multiple properties and multifamily dwelling.* Comments 4(a)(9)–2 and –3 explain that a financial institution may elect to report a single covered loan or application in a single or multiple entries if the covered loan or application is secured by or, in the case of an application, proposed to be secured by multiple properties or a multifamily dwelling with more than one postal address. Regardless of whether the institution reports the loan in a single or multiple entries, an institution reports the information required by § 1003.4(a)(31) for all of the property or properties securing or, in the case of an application, proposed to secure the covered loan. See comments 2(f)–1 and 4(a)(9)–2. For example, assume a financial institution originated a covered loan secured by a multifamily dwelling, comprised of two 10-unit apartment buildings, each with a different postal address. If the financial institution elects to report the loan in two entries, reporting the information required for § 1003.4(a)(9) for each of the two apartment buildings, the financial institution reports, as required by § 1003.4(a)(31), 20 individual dwelling units in each of the two entries. The financial institution also reports, as required by § 1003.4(a)(31), 20 individual dwelling units, if the financial institution elects to report the loan in a single entry by reporting the information required for § 1003.4(a)(9) for only one of the two buildings.

Paragraph 4(a)(32).

1. *Affordable housing income restrictions.* For purposes of § 1003.4(a)(32), affordable housing income-restricted units are individual dwelling units that have restrictions based on the income level of occupants. Such income levels are frequently expressed as a percentage of area median income by household size as established by the U.S. Department of Housing and Urban Development or another agency responsible for implementing the applicable affordable housing program. Such restrictions are frequently part of compliance with programs that provide public funds, special tax treatment, or density bonuses to encourage development or preservation of affordable housing. Rent control or rent stabilization laws, and the acceptance by the owner or manager of a multifamily dwelling of Housing Choice Vouchers (24 CFR part 982) or other similar forms of portable housing assistance that are tied to an occupant and not an individual dwelling unit are not affordable housing income-restricted dwelling units for purposes of § 1003.4(a)(32).

2. *Federal affordable housing sources.* Examples of Federal programs and funding

sources that may result in individual dwelling units that are reportable under § 1003.4(a)(32) include, but are not limited to:

i. Affordable housing programs pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

ii. Public housing (42 U.S.C. 1437a(b)(6));

iii. The HOME Investment Partnerships program (24 CFR part 92);

iv. The Community Development Block Grant program (24 CFR part 570);

v. Multifamily tax subsidy project funding through tax-exempt bonds or tax credits (26 U.S.C. 42; 26 U.S.C. 142(d));

vi. Project-based vouchers (24 CFR part 983);

vii. Federal Home Loan Bank affordable housing program funding (12 CFR part 1291); and

viii. Rural Housing Service multifamily housing loans and grants (7 CFR part 3560).

3. *State and local government affordable housing sources.* Examples of State and local sources that may result in individual dwelling units that are reportable under § 1003.4(a)(32) include, but are not limited to: State or local administration of Federal funds or programs; State or local funding programs for affordable housing or rental assistance, including programs operated by independent public authorities; inclusionary zoning laws; and tax abatement or tax increment financing contingent on affordable housing requirements.

4. *Multiple properties and multifamily dwelling.* Comments 4(a)(9)–2 and –3 explain that a financial institution may elect to report a single covered loan or application in a single or multiple entries if the covered loan or application is secured by or, in the case of an application, proposed to be secured by multiple properties or a multifamily dwelling with more than one postal address. Regardless of whether the institution reports the loan in a single or multiple entries, an institution reports the information required by § 1003.4(a)(32) for all of the property or properties securing or, in the case of an application, proposed to secure the covered loan. *See* comments 2(f)–1 and 4(a)(9)–2. For example, a financial institution originated a covered loan secured by a multifamily dwelling, comprised of two 50-unit apartment buildings that each contain 10 income-restricted individual dwelling units, each with a different postal address. If the financial institution elects to report the loan in two entries, reporting the information required for § 1003.4(a)(9) for each of the two apartment buildings, the financial institution reports, as required by § 1003.4(a)(32), 20 income-restricted individual dwelling units in each of the two entries. The financial institution also reports, as required by § 1003.4(a)(32), 20 income-restricted individual dwelling units, if the financial institution elects to report the loan in a single entry by reporting the information required for § 1003.4(a)(9) for only one of the two buildings.

Paragraph 4(a)(33).

1. *Direct submission.* An application is submitted directly to the financial institution if the institution receives the application directly from the applicant or borrower. For example, if an applicant submits an application through the financial institution's Web site, the application is submitted directly to the institution. An application is not submitted directly to an institution if the institution does not receive the application directly from the applicant or borrower. For example, if an applicant completes an application over the telephone with a broker or correspondent and the broker or correspondent forwards the application to the institution for approval, the institution does not receive the application directly from the applicant or borrower. For example, assume that an applicant submits an application for a covered loan to a correspondent lender that approves the application, originates the covered loan in its name, and sells the covered loan to another financial institution. The correspondent reports the covered loan as an origination and indicates that it received the application directly from the applicant. The purchasing financial institution reports the loan as a purchase, and uses the code for ''not applicable'' for the information required by § 1003.4(a)(33).

2. *Initially payable.* Section 1003.4(a)(33) requires financial institutions to report whether the obligation arising from a covered loan was or, in the case of an application, would have been initially payable to the institution. An obligation is initially payable to the institution if, for example, the loan closed in the institution's name or if the institution meets the definition of creditor in Regulation Z, 12 CFR 1026.2(a)(17), with respect to the transaction at issue. Conversely, if, for example, a covered loan closed in the name of another financial institution, such as a correspondent lender, the covered loan was not initially payable to the institution.

3. *Agents.* If a financial institution is reporting the credit decision made by its third party agent consistent with comment 4(a)–5, the agent is not considered the financial institution for the purposes of § 1003.4(a)(33). For example, assume that an applicant submitted an application to Financial Institution A, and Financial Institution A made the credit decision acting as Financial Institution B's agent under State law. A covered loan was originated and closed in Financial Institution A's name. Financial Institution B purchased the loan. Financial Institution B reports the origination and not the purchase, and indicates that the application was not submitted directly to the financial institution and that the transaction was not initially payable to the financial institution.

Paragraph 4(a)(34).

1. *NMLSR ID.* Section 1003.4(a)(34) requires a financial institution to report the Nationwide Mortgage Licensing System and Registry unique identifier (NMLSR ID) for the mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, as applicable. The NMLSR ID is a unique number or other identifier generally assigned to individuals registered or licensed through NMLSR to provide loan originating services. For more information, see the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008 (S.A.F.E. Act), 12 U.S.C. 5101 *et seq.*, and its implementing regulations (12 CFR part 1007 and 12 CFR part 1008).

2. *Mortgage loan originator without NMLSR ID.* An NMLSR ID for the mortgage loan originator is not required by § 1003.4(a)(34) to be reported by a financial institution if the mortgage loan originator is not required to obtain and has not been assigned an NMLSR ID. For example, certain individual mortgage loan originators may not be required to obtain an NMLSR ID for the particular transaction being reported by the financial institution, such as a commercial loan. However, some mortgage loan originators may have obtained an NMLSR ID even if they are not required to obtain one for that particular transaction. If a mortgage loan originator has been assigned an NMLSR ID, a financial institution complies with § 1003.4(a)(34) by reporting the mortgage loan originator's NMLSR ID regardless of whether the mortgage loan originator is required to obtain an NMLSR ID for the particular transaction being reported by the financial institution. In the event that the mortgage loan originator is not required to obtain and has not been assigned an NMLSR ID, a financial institution complies with § 1003.4(a)(34) by reporting ''NA'' for not applicable.

3. *Multiple mortgage loan originators.* If more than one individual meets the definition of a mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, for a covered loan or application, a financial institution complies with § 1003.4(a)(34) by reporting the NMLSR ID of the individual mortgage loan originator with primary responsibility for the transaction. A financial institution that establishes and follows a reasonable, written policy for determining which individual mortgage loan originator has primary responsibility for the reported transaction complies with § 1003.4(a)(34).

Paragraph 4(a)(35).

1. *AUS recommendation—considered in underwriting.* Except for purchased covered loans, § 1003.4(a)(35) requires a financial institution to report the recommendation generated by the automated underwriting system (AUS) used to evaluate the application. A financial institution complies with § 1003.4(a)(35) by reporting an AUS recommendation if the recommendation was considered by the financial institution in its underwriting process. For example, when a financial institution takes into account a combination of an AUS recommendation and manual underwriting in making the credit decision, the financial institution has considered the AUS recommendation in its underwriting process and reports the AUS recommendation.

2. *Reporting AUS data.* i. *Multiple systems.* When a financial institution uses more than one AUS to evaluate an application, the financial institution complies with § 1003.4(a)(35) by reporting the name of the AUS developed by a securitizer, Federal government insurer, or guarantor that the financial institution used closest in time to the credit decision. For example, when a

financial institution processes an application through the AUS of two different government-sponsored enterprises, such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the financial institution complies with § 1003.4(a)(35) by reporting the name of the AUS that was used closest in time to the credit decision. If a financial institution processes an application through multiple AUSs at the same time, the financial institution complies with § 1003.4(a)(35) by reporting the name of the AUS that generated the recommendation that was a factor in the credit decision.

ii. *Multiple recommendations.* When a financial institution obtains two or more recommendations for an applicant or borrower that are generated by a single or multiple AUSs developed by a securitizer, Federal government insurer, or guarantor, the financial institution complies with § 1003.4(a)(35) by reporting the AUS recommendation generated closest in time to the credit decision. For example, when a financial institution receives a recommendation from an AUS that requires the financial institution to manually underwrite the loan, but in addition the financial institution subsequently processes the application through a different AUS that also generates a recommendation, the financial institution complies with § 1003.4(a)(35) by reporting the AUS recommendation generated closest in time to the credit decision. If a financial institution obtains multiple AUS recommendations at the same time, the financial institution complies with § 1003.4(a)(35) by reporting the AUS recommendation that was a factor in the credit decision.

3. *No credit decision or AUS not considered in underwriting.* If a financial institution does not use an AUS developed by a securitizer, Federal government insurer, or guarantor to evaluate the application, the financial institution complies with § 1003.4(a)(35) by reporting ''not applicable.'' For example, if a financial institution only manually underwrites an application and does not consider an AUS recommendation in its underwriting process, the financial institution complies with § 1003.4(a)(35) by reporting ''not applicable.'' Also, if the file was closed for incompleteness or the application was withdrawn before a credit decision was made, the financial institution complies with § 1003.4(a)(35) by reporting ''not applicable.''

Paragraph 4(a)(38).

1. *General.* Section 1003.4(a)(38) requires a financial institution to identify whether the covered loan is subject to the ability-to-repay provisions of Regulation Z, 12 CFR 1026.43, and whether the covered loan is a qualified mortgage, as described under Regulation Z, 12 CFR 1026.43(e) or (f). Financial institutions may rely on 12 CFR 1026.43, the related commentary in supplement I to part 1026, and appendix Q to part 1026 in determining whether a covered loan is a qualified mortgage. If a covered loan, as defined in § 1003.2(e), is subject to 12 CFR 1026.43, but is not a qualified mortgage pursuant to 12 CFR 1026.43(e) or (f), § 1003.4(a)(38) requires a financial institution to identify the covered loan as a loan that is not a qualified mortgage. For example, if a covered loan, as defined in § 1003.2(e), is subject to the requirements of 12 CFR 1026.43, but does not meet the criteria for the definition of qualified mortgage under Regulation Z 12 CFR 1026.43(e)(2), (e)(4), (e)(5), or (f), the financial institution complies with § 1003.4(a)(38) by identifying the covered loan as a loan that is not a qualified mortgage. If a covered loan, as defined in § 1003.2(e), is not subject to paragraphs (c) through (f) of 12 CFR 1026.43, § 1003.4(a)(38) requires the financial institution to identify the covered loan as a loan that is not subject to the reporting requirements of 12 CFR 1026.43. For example, if a covered loan, such as a reverse mortgage, is not subject to paragraphs (c) through (f) of 12 CFR 1026.43, the financial institution complies with § 1003.4(a)(38) by identifying the loan as not subject to the ability-to-repay provisions.

* * * * *

Section 1003.5—Disclosure and Reporting

5(a) Reporting to agency.

1. *Quarterly reporting—coverage.* Section 1003.5(a)(1)(ii) requires that a financial institution that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, for the preceding calendar year must submit on a quarterly basis the HMDA data required to be recorded on a loan application register pursuant to § 1004.4(f). For example, if for calendar year one Financial Institution A reports 75,001 purchased covered loans, it must submit its data on a quarterly basis in calendar year two. Similarly, if for calendar year one Financial Institution A reports 25,001 covered loans and 50,000 purchased covered loans, it must submit its data on a quarterly basis in calendar year two. If for calendar year two Financial Institution A reports a total of fewer than 75,000 covered loans, applications, and purchased covered loans, combined, it will return to submitting its data on a calendar year basis for calendar year three.

2. *Change in appropriate Federal agency.* If the appropriate Federal agency for a financial institution changes (as a consequence of a merger or a change in the institution's charter, for example), the institution must submit its data to the Bureau or the new appropriate Federal agency beginning in the calendar year following the change or, for institutions reporting on a quarterly basis, in the quarter following the change.

3. *Subsidiaries.* A financial institution is a subsidiary of a bank or savings association (for purposes of reporting HMDA data to the same agency as the parent) if the bank or savings association holds or controls an ownership interest in the institution that is greater than 50 percent. For purposes of § 1003.5(a)(4), an entity that holds or controls an ownership interest in the financial institution that is greater than 50 percent should be listed as a parent company.

4. *Retention.* A financial institution shall retain a copy of its complete loan application register for its records in either electronic or paper form.

5. *Quarterly reporting—retention.* Section 1003.5(a)(1)(ii) requires that a financial institution that reports on a quarterly basis shall retain a copy of its complete loan application register for its records for at least three years. A complete loan application register reflects all data reported for a calendar year. A financial institution that reports data on a quarterly basis satisfies the retention requirement in § 1003.5(a)(1)(ii) by retaining the data for the calendar year combined on one loan application register or on four quarterly loan application registers.

5(b) Disclosure statement.

* * * * *

2. *Format of notice.* An institution may make the notice required under § 1003.5(b)(2) available in paper or electronic form.

3. *Notice—suggested text.* A financial institution may use any text that meets the requirements of § 1003.5(b)(2). The following language is suggested but is not required:

Home Mortgage Disclosure Act Notice

The HMDA data about our residential mortgage lending are available online for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, age, and income of applicants and borrowers; and information about loan approvals and denials. This data is available online at the Web sites of the Federal Financial Institutions Examination Council (www.ffiec.gov/hmda) and the Consumer Financial Protection Bureau (www.consumerfinance.gov).

5(c) Public disclosure of modified loan application register.

* * * * *

2. *Loan amount.* Before it makes available to the public its modified loan application register, a financial institution must round the loan amount for each covered loan, application, and purchased covered loan to the nearest thousand (round $500 up to the next $1,000). For example, a loan for $167,300 should be shown as 167,000 and one for $15,500 shown as 16,000.

3. *Modified loan application register data.* The modified loan application register is the loan application register reflecting all data reported for a calendar year, modified as described in § 1003.5(c)(1), whether the data were submitted on a quarterly or annual basis. A financial institution that submits its HMDA data on a quarterly basis must show on the modified loan application register all data reported for the calendar year, not just data reported for a particular quarter.

5(e) Notice of availability.

1. *Posted notice—suggested text.* A financial institution may use any text that meets the requirements of § 1003.5(e). The Bureau or an appropriate Federal agency may provide HMDA posters that an institution can use to inform the public of the availability of its HMDA data, or an institution may create its own notice. The following language is suggested but is not required:

Home Mortgage Disclosure Act Notice

The HMDA data about our residential mortgage lending are available for review. The data show geographic distribution of loans and applications; ethnicity, race, sex,

age, and income of applicants and borrowers; and information about loan approvals and denials. Inquire at this office about how to obtain our HMDA data. HMDA data for this and many other financial institutions are also available online. For more information, visit the Web site of the Federal Financial Institutions Examination Council (www.ffiec.gov/hmda) or the Consumer Financial Protection Bureau (www.consumerfinance.gov).

Dated: July 23, 2014.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

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FEDERAL REGISTER

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No. 168 August 29, 2014

Part V

The President

Proclamation 9153—Women's Equality Day, 2014

Federal Register
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Friday, August 29, 2014

Presidential Documents

Title 3—

The President

Proclamation 9153 of August 25, 2014

Women's Equality Day, 2014

By the President of the United States of America

A Proclamation

On August 26, 1920, the 19th Amendment was certified, securing for women the fundamental right to vote. The product of decades spent organizing, protesting, and agitating, it was a turning point on the long march toward equality for all, and it inspired generations of courageous women who took up this unfinished struggle in their own time. On the anniversary of this civil rights milestone, we honor the character and perseverance of America's women and all those who work to make the same rights and opportunities possible for our daughters and sons.

When women are given the opportunity to succeed, they do. Younger women graduate college at higher rates than men and are more likely to hold a graduate school degree. They are nearly half our workforce, and increasingly they are the primary breadwinner for families. But too often, the women and girls who lift up our Nation achieve extraordinary success only after overcoming the legacy of unequal treatment.

My Administration is committed to tearing down the barriers—wherever they exist—that deny women equal opportunity. We prohibited gender discrimination in our health care system, made it easier for women to challenge unfair pay, and invested in programs that help women enter high-paying careers. We fought to improve student grants and loans to ensure a college education is within the reach of every woman, and we established the White House Task Force to Protect Students from Sexual Assault because no matter where women pursue a brighter future, they have the right to do so without fear.

From classrooms to boardrooms, in cities and towns across America, and in the ranks of our Armed Forces, women are succeeding like never before. Their contributions are growing our economy and advancing our Nation. But despite these gains, the dreams of too many mothers and daughters continue to be deferred and denied. There is still more work to do and more doors of opportunity to open. When women receive unequal pay or are denied family leave and workplace flexibility, it makes life harder for our mothers and daughters, and it hurts the loved ones they support. These outdated policies and old ways of thinking deprive us of our Nation's full talents and potential. That is why this June we held the first-ever White House Summit on Working Families to develop a comprehensive agenda that ensures hard working Americans do not have to choose between being productive employees and responsible family members. We know that when women and girls are free to pursue their own measure of happiness in all aspects of their lives, they strengthen our families, enrich our communities, and better our country. We know that when women succeed, America succeeds.

In the 21st century, a mother should be able to raise her daughter and be her role model—showing her that with hard work, there are no limits to what she can accomplish. On Women's Equality Day, we continue the righteous work of building a society where women thrive, where every door is open to them, and their every dream can be realized.

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 August 26, 2014, as Women's Equality Day. I call upon the people of the United States to celebrate the achievements of women and promote gender equality in our country.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth 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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