AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 79 Wednesday,
No. 214 November 5, 2014

Pages 65541–65862

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Printed on recycled paper.

Contents

Federal Register

Vol. 79, No. 214

Wednesday, November 5, 2014

Agriculture Department
See Commodity Credit Corporation
See Natural Resources Conservation Service

Antitrust Division
NOTICES
Changes under National Cooperative Research and Production Act:
Network Centric Operations Industry Consortium, Inc., 65703
ODVA, Inc., 65702–65703

Antitrust
See Antitrust Division

Children and Families Administration
NOTICES
Funding Availability:
Child Trends, Inc., Bethesda, MD; Single-Source Program Expansion Supplement Grant, 65663

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Commodity Credit Corporation
RULES
Conservation Stewardship Program, 65836–65852

Commodity Futures Trading Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Financial Resource Requirements for Derivatives Clearing Organizations, 65643–65644

Copyright Royalty Board
PROPOSED RULES
Digital Performance Rights:
Sound Recordings and Ephemeral Recordings, 65609–65612

Defense Acquisition Regulations System
RULES
Defense Federal Acquisition Regulation Supplements:
Clauses with Alternates—Foreign Acquisition, 65816–65834
Clauses with Alternates—Special Contracting Methods, Major System Acquisition, and Service Contracting, 65592–65595

Defense Department
See Defense Acquisition Regulations System

Department of Transportation
See Pipeline and Hazardous Materials Safety Administration

Education Department
NOTICES
Meetings:
National Assessment Governing Board Quarterly, 65644–65646

Employment and Training Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Senior Community Service Employment Program Performance Measurement System, 65705

Energy Department
See Federal Energy Regulatory Commission
RULES
Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas, 65541–65542
PROPOSED RULES
Energy Conservation Programs:
Energy Conservation Standards for Residential Central Air Conditioners and Heat Pumps, 65603–65609
NOTICES
Authority to Import and Export Natural Gas, etc.:
ENCANA NATURAL GAS INC., FREEPORT LNG DEVELOPMENT, LP, et al., 65646

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Indiana; Open Burning Rule; Withdrawal, 65589
Maine; Volatile Organic Compound Regulations, 65587–65589
National Oil and Hazardous Substances Pollution Contingency Plan:
Data Management System Nomenclature, 65589–65592
PROPOSED RULES
National Oil and Hazardous Substances Pollution Contingency Plan:
Data Management System Nomenclature, 65612–65613
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
NESHAP for Engine Test Cells/Stands, 65653–65654
Requirements and Exemptions for Specific RCRA Wastes, 65652–65653
Meetings:
Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel, 65654
Pollinator Health Task Force, 65654–65655
Requests for Nominations:
National Environmental Justice Advisory Council, 65655–65656
Requests to Voluntarily Amend Registrations to Terminate Certain Uses:
Methomyl, 65656–65658

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Special Conditions:
Airbus Model A350–900 series airplane; flight-envelope protection (icing and non-icing conditions); high-incidence protection and alpha-floor systems, 65562–65571
NOTICES
Meetings:
RTCA Tactical Operations Committee, 65757

Federal Contract Compliance Programs Office
PROPOSED RULES
Government Contractors:
Requirement to Report Summary Compensation Data on Employee Compensation, 65613–65614

Federal Deposit Insurance Corporation
NOTICES
Meetings:
Advisory Committee on Community Banking, 65658

Federal Emergency Management Agency
NOTICES
Funding Availability:
Assistance to Firefighters Grant Program, 65679–65693

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 65647–65649
Complaints:
Bonneville Power Administration v. PacifiCorp, 65649
Designations of Certain Commission Personnel as Non-Decisional:
Southern California Edison Co., 65649–65650
Filings:
City of Vernon, CA, 65650
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Duke Energy Renewable Services, LLC, 65650–65651
GP Renewables and Trading, LLC, 65650
Petitions for Enforcement:
Alaska Power and Telephone Co., City of Saxman, AK, 65651
Revocations of Market-Based Rate Tariffs, 65651–65652

Federal Maritime Commission
NOTICES
Agreements Filed, 65659

Federal Motor Carrier Safety Administration
NOTICES
Hours of Service of Drivers; Exemption Applications:
B.R. Kreider and Son, Inc., from the 12-Hour Limit on the Duty Day of Short-Haul Drivers, 65757–65758
Qualification of Drivers; Exemption Applications:
Vision, 65759–65762

Federal Reserve System
RULES
Financial Market Utilities, 65543–65562
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 65659
Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Corrections, 65659–65660

Federal Transit Administration
NOTICES
Public Transportation Resilience Projects in Response to Hurricane Sandy, 65762–65765

Fish and Wildlife Service
RULES
Migratory Bird Permits:
Removal of Yellow-billed Magpie and Other Revisions to Depredation Order, 65595–65602

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low–Acid Foods in Hermetically Sealed Containers; Correction, 65669–65670
Investigational New Drug Applications, 65663–65669
Meetings:
Oncologic Drugs Advisory Committee, 65670–65671

Foreign-Trade Zones Board
NOTICES
New Grantee Designations:
Foreign-Trade Zone 245, Decatur, IL, 65615
Proposed Production Activities:
Foreign-Trade Zone 83, Huntsville, AL; General Electric Co. (Household Refrigerators), Decatur, AL, 65616

General Services Administration
NOTICES
Meetings:
World War One Centennial Commission, 65660

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See Indian Health Service
See National Institutes of Health
NOTICES
Designations of Classes of Employees for Additions to the Special Exposure Cohort; Additions:
General Atomics Facility in La Jolla, CA, 65660
Medicare Program:
Administrative Law Judge Hearing Program for Medicare Claim Appeals, 65660–65663

Health Resources and Services Administration
NOTICES
Meetings:
Centers for Disease Control and Prevention Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment; Correction, 65671

Homeland Security Department
See Federal Emergency Management Agency
See U.S. Customs and Border Protection
See U.S. Immigration and Customs Enforcement

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2015 Rental Housing Finance Survey, 65695–65696

Application for Healthy Homes and Lead Hazard Control Grant Programs and Quality Assurance Plans, 65696

Indian Health Service
See Indian Health Service
NOTICES
Organizations, Functions, and Delegations of Authority, 65671–65676

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65771

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Steel Wire Garment Hangers from the People's Republic of China, 65616–65618

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Consumer Electronics with Display and Processing Capabilities, 65698–65701

Justice Department
See Antitrust Division
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Qualitative Feedback on Agency Service Delivery, 65701–65702
Consent Decrees under the Clean Water Act, 65702

Labor Department
See Employment and Training Administration
See Federal Contract Compliance Programs Office
See Labor Statistics Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Excavation Cave-in Protection System Design Standard, 65704–65705
Nondisplacement of Qualified Workers under Service Contracts, 65703–65704

Labor Statistics Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65706–65707

Land Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65696–65698

Legal Services Corporation
NOTICES
Competitive Grant Awards:
Provision of Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 2015, 65707–65710

Library of Congress
See Copyright Royalty Board

National Archives and Records Administration
NOTICES
Meetings:
Advisory Committee on the Records of Congress, 65710

National Credit Union Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65711–65712

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65765–65768

National Institute of Standards and Technology
NOTICES
Requests for Nominations:
Federal Advisory Committees, 65618–65624

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 65676–65678
National Cancer Institute, 65678–65679
National Cancer Institute; Amendments, 65678
National Center for Complementary and Alternative Medicine, 65676, 65678
National Institute of Biomedical Imaging and Bioengineering, 65677
National Institute of Dental and Craniofacial Research, 65678

National Oceanic and Atmospheric Administration
NOTICES
Endangered and Threatened Species:
Take of Abalone, 65627–65628
Take of Anadromous Fish, 65624–65627
Endangered and Threatened Wildlife and Plants:
Petition to List the Queen Conch, 65628–65643

Natural Resources Conservation Service
RULES
Conservation Stewardship Program, 65836–65852
NOTICES
Proposed Changes to Section I of the Iowa, Minnesota, North Dakota, and South Dakota State Technical Guides, 65615

Nuclear Regulatory Commission
RULES
Approval of American Society of Mechanical Engineers' Code Cases, 65776–65814
Definition of a Utilization Facility; Correction, 65541
PROPOSED RULES
Definition of a Utilization Facility; Correction, 65603
NOTICES
Combined Licenses:
Bell Bend Nuclear Power Plant, PPL Bell Bend, LLC, 65712–65714
Environmental Impact Statements; Availability, etc.:
PSEG Site, Salem County, NJ; Early Site Permit, 65714–65715
Exemptions:
Dominion Energy Kewaunee, Inc., Kewaunee Power Station, 65715–65727

Meetings:
ACRS Subcommittee on Reliability and PRA, 65727–65728
ACRS Subcommittee on Structural Analysis, 65727
ACRS Subcommittees on Digital I and C and Reliability and PRA, 65728
Advisory Committee on Reactor Safeguards Subcommittee on Digital I and C, 65728
Petitions:
Entergy Nuclear Operations, Inc., James A. Fitzpatrick Nuclear Power Plant; Directors Decision, 65729–65730

Pipeline and Hazardous Materials Safety Administration
NOTICES
Meetings:
International Standards on the Transport of Dangerous Goods, 65768

Presidential Documents
PROCLAMATIONS
Special Observances:
Critical Infrastructure Security and Resilience Month (Proc. 9199), 65853–65856
Military Family Month (Proc. 9200), 65857–65858
National Adoption Month (Proc. 9201), 65859–65860
National Alzheimer's Disease Awareness Month (Proc. 9202), 65861–65862

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 65730
Applications:
AllianceBernstein Multi-Manager Alternative Fund, et al., 65731–65732
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., 65744–65746
BATS Y-Exchange, Inc., 65735–65738
C2 Options Exchange, Inc., 65749–65751
EDGA Exchange, Inc., 65739–65741
EDGX Exchange, Inc., 65746–65749
NASDAQ OMX BX, Inc., 65733–65735, 65738–65739
NASDAQ OMX PHLX, LLC, 65742–65744
NASDAQ Stock Market, LLC, 65751–65756
Trading Suspension Orders:
VHGI Holdings, Inc., 65756

State Department
NOTICES
Culturally Significant Objects Imported for Exhibition:
Display of Sixteen Hellenistic Silver Objects from the Republic of Italy, Sicily Region, 65757
The Winchester Bible: A Masterpiece of Medieval Art, 65756

Surface Transportation Board
NOTICES
Lease Exemptions Containing Interchange Commitments:
C and NC Railroad, LLC from Norfolk Southern Railway Co., 65768–65769
Requests for Nominations:
Rail Energy Transportation Advisory Committee, 65770–65771
Railroad-Shipper Transportation Advisory Council, 65769–65770

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration
See Surface Transportation Board

Treasury Department
See Internal Revenue Service

U.S. Customs and Border Protection
NOTICES
Revocations of Customs Broker's Licenses:
All Roads Logistics, LLC, 65693–65694

U.S. Immigration and Customs Enforcement
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Allegation of Counterfeiting and Intellectual Piracy, 65694–65695
Non-Immigrants Checkout Letter, 65694

Veterans Affairs Department
RULES
Expanded Access to Non-VA Care through the Veterans Choice Program, 65571–65587
NOTICES
Wait-Times for the Department for the Veterans Choice Program, 65771–65773

Separate Parts In This Issue

Part II
Nuclear Regulatory Commission, 65776–65814

Part III
Defense Department, Defense Acquisition Regulations System, 65816–65834

Part IV
Agriculture Department, Commodity Credit Corporation, 65836–65852
Agriculture Department, Natural Resources Conservation Service, 65836–65852

Part V
Presidential Documents, 65853–65862

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

9199 65855
9200 65857
9201 65859
9202 65861

7 CFR

1470 65836

10 CFR

50 (2 documents) 65541, 65776
590 65541

Proposed Rules:

50 65603
430 65603

12 CFR

234 65543

14 CFR

25 65562

37 CFR

Proposed Rules:

380 65609

38 CFR

17 65571

40 CFR

52 (2 documents) 65587, 65589
300 65589

Proposed Rules:

300 65612

41 CFR

Proposed Rules:

60 65613
61 65613

48 CFR

212 65816
217 65592
225 65816
234 65592
237 65592
252 (2 documents) 65592, 65816

50 CFR

21 65595

Rules and Regulations

Federal Register

Vol. 79, No. 214

Wednesday, November 5, 2014

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2014–0238]

RIN 3150–AJ48

Definition of a Utilization Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting the docket identification number and Regulation Identifier Number (RIN) for a Direct Final Rule published in the **Federal Register** (FR) on October 17, 2014, to amend the NRC's regulations to add SHINE Medical Technologies, Inc.'s accelerator-driven subcritical operating assemblies, as described in the application assigned docket number 50–608, to the definition of utilization facility.

DATES: This correction is effective November 5, 2014.

ADDRESSES: Please refer to Docket ID NRC–2014–0238 when contacting the NRC about the availability of information for this document. You may obtain publicly-available information related to this direct final rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0238. 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, at 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *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: Steven Lynch, Office of Nuclear Reactor Regulation; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1524; email: *Steven.Lynch@nrc.gov.*

SUPPLEMENTARY INFORMATION: On October 17, 2014 (79 FR 62329), the NRC published a Direct Final Rule to amend the NRC's regulations to add SHINE Medical Technologies, Inc.'s accelerator-driven subcritical operating assemblies, as described in the application assigned docket number 50–608, to the definition of utilization facility. That rule incorrectly identified the docket identification number for the action as NRC–2013–0053, and the RIN for the action as 3150–AJ18.

Correction

Accordingly, in direct final rule FR Doc. 2014–24732, on page 62329, in the Friday issue of October 17, 2014 (79 FR 62329), the docket identification number NRC–2013–0053 in the heading of the document and in all other instances on page 62329 and 62330, is revised to read NRC–2014–0238. In addition, the RIN, 3150–AJ18, in the heading of the document is revised to read 3150–AJ48.

Dated at Rockville, Maryland, this 30th day of October, 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

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

[FR Doc. 2014–26254 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 590

Procedures for Changes in Control Affecting Applications and Authorizations To Import or Export Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of procedures.

SUMMARY: The U.S. Department of Energy's (DOE or the Department) regulations require applications to export natural gas from the United States to identify ''all the participants in the transaction, including the parent company, if any, and identification of any corporate or other affiliations among the participants.'' In many cases, either before or after a final export authorization has been issued, ownership or management of the exporting entity changes hands, resulting in a change in control (CIC). This document sets forth procedures that will apply when applicants to import or export natural gas or those entities that have already received an import or export authorization undergo changes in control.

DATES: Effective November 5, 2014, and applicable beginning September 26, 2014.

FOR FURTHER INFORMATION CONTACT:

Benjamin Nussdorf, U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–052, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–7893.

Samuel Walsh, U.S. Department of Energy (GC–1), Office of the General Counsel, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6732.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 3(a) of the Natural Gas Act (NGA), 15 U.S.C. 717b(a), no person may import or export natural gas without authorization from DOE, and DOE will approve such imports or exports unless, after opportunity for a hearing, it determines that imports or exports are not consistent with the public interest. Section 3(c) of the NGA

provides that exports of natural gas to countries with which the United States has entered into a free trade agreement (FTA) providing for national treatment for trade in natural gas (FTA countries),[1] and all imports of liquefied natural gas (LNG) from any country, are deemed in the public interest and must be granted without modification or delay. 15 U.S.C. 717b(c).

DOE's regulations at 10 CFR 590.204(b) require applicants to amend pending applications whenever there are changes in material facts or conditions upon which the proposal is based. Additionally, DOE's regulations at 10 CFR 590.405 state that authorizations to import or export natural gas shall not be transferable or assignable unless specifically authorized by the Assistant Secretary for Fossil Energy. In applying § 590.405, DOE has made clear that a change in control of the authorization holder may occur through asset sale or stock transfer or by other means. DOE has also explained that it construes a change in control to mean a change, directly or indirectly, of the power to direct the management or policies of an entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, or common directors, officers, or stockholders, or voting trusts, holding trusts, or debt holdings, or contract, or any other direct or indirect means. DOE has explained that a rebuttable presumption that control exists will arise from the ownership or the power to vote, directly or indirectly, 10 percent or more of the voting securities of such entity.

II. Discussion

This document announces new procedures to amend both applications pending before DOE and authorizations already issued by DOE to reflect changes in control of the proposed or actual importing or exporting entity (or entities). These procedures are intended to streamline the process for making these changes without affecting DOE's ability to make the public interest determination required by Section 3(a) of the NGA. These procedures do not affect the existing standard used by DOE to determine if a change in control has occurred or will occur.

[1] "Non-FTA countries" refers to those nations with which the United States has not entered into a FTA providing for national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy. DOE reviews applications for exports of natural gas to non-FTA countries under NGA section 3(a).

a. Timing

Entities may file notice of changes in control before such changes have been effectuated but, in all cases, must file notice of changes in control no later than 30 days after such changes have been effectuated or 30 days after publication of this document, whichever is later, unless good cause is shown for a later filing.

b. Non-FTA Natural Gas Export Applications and Authorizations

With respect to pending non-FTA export applications, *i.e.*, proceedings in which DOE has not yet issued a final order, applicants may amend their applications to reflect a change in control by submitting notice of such amendment to DOE and serving that notice on other parties in the proceeding, as provided in 10 CFR 590.107. DOE will give immediate effect to the amendment but will accept and consider answers to the notice of amendment received within 15 days of service of the applicant's pleading. *See* 10 CFR 590.302(b). DOE then will address the issues raised in any answers to such an amendment in its final order on the pending application. Unless the opponents of the change in control demonstrate that the change renders the underlying application inconsistent with the public interest, or unless DOE independently makes such a determination, no further action will be taken by DOE on the change in control and the amendment will continue to be given effect.

With respect to final non-FTA export authorizations already issued by DOE, authorization holders may submit a statement of change in control to DOE using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov* with CIC and the FE Docket No. in the title line; (2) mailing an original and three paper copies of the filing to U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, P.O. Box 44375, Washington, DC 20026–4375; or (3) hand delivering an original and three paper copies of the filing to U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

Upon receipt of such a statement of change in control, DOE will give effect to the change in control and will publish a notice of the change in the **Federal Register**. Interested persons will be provided 15 days from the date of publication in the **Federal Register** in order to move to intervene, protest, and answer the statement of change in control. If no interested person protests the change in control and DOE takes no action on its own motion, the amendment will be deemed granted 30 days after publication in the **Federal Register**. If one or more protests are submitted, DOE will review any motions to intervene, protests, and answers, and will issue a determination as to whether the proposed change in control has been demonstrated to render the underlying authorization inconsistent with the public interest.

c. FTA Long-Term Natural Gas Applications and Authorizations and Non-FTA Long-Term LNG Import Applications and Authorizations

With respect to pending FTA long-term natural gas import or export applications and pending non-FTA long-term LNG import applications, applicants may amend their applications to reflect a change in control by submitting a notice of such amendment to DOE. DOE will give immediate effect to the amendment and take no further action.

With respect to FTA long-term natural gas import or export authorizations and non-FTA long-term LNG import authorizations already issued by DOE, authorization holders may submit a statement of change in control to DOE using one of the three methods set forth above. Upon receipt of the statement, DOE will give immediate effect to the change in control and take no further action.

Long-term FTA applicants or authorization holders simultaneously seeking to amend their non-FTA applications or authorizations may provide notice to DOE of the change in control in a single notice or statement, respectively, so long as the desired change to the long-term FTA application or authorization is described clearly with reference to the applicable orders or docket numbers.

This document is applicable beginning September 26, 2014.

Issued in Washington, DC, on October 16, 2014.

John A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2014–25143 Filed 11–4–14; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 234

[Regulation HH; Docket No. R–1477]

RIN No. 7100–AE09

Financial Market Utilities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is publishing a final rule revising the risk-management standards in its Regulation HH, Designated Financial Market Utilities. The Board is replacing the existing two sets of risk-management standards for payment systems and for central securities depositories and central counterparties with a common set of risk-management standards for all types of designated financial market utilities (FMUs) and making conforming changes to the definitions. The new common set of risk-management standards and the definitions are based on the *Principles for Financial Market Infrastructures* (PFMI), which were developed by the Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO) and published in April 2012.

DATES: This final rule is effective December 31, 2014. Designated FMUs must be in compliance with the rule by the effective date, with the exception of establishing plans for recovery and orderly wind-down, set forth in § 234.3(a)(3)(iii); addressing uncovered credit losses, set forth in § 234.3(a)(4)(vi); addressing liquidity shortfalls, set forth in § 234.3(a)(7)(viii); maintaining sufficient liquid net assets funded by equity and a viable capital plan, set forth in § 234.3(a)(15)(i) and (ii); managing risks arising in tiered participation arrangements, set forth in § 234.3(a)(19); and providing comprehensive public disclosure, set forth in § 234.3(a)(23)(iv), which have a compliance date of December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Lucier, Deputy Associate Director (202) 872–7581, Paul Wong, Manager (202) 452–2895, or Emily A. Caron, Senior Financial Services Analyst (202) 452–5261, Division of Reserve Bank Operations and Payment Systems; Christopher W. Clubb, Special Counsel (202) 452–3904, Legal Division; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act or Act), titled the ''Payment, Clearing, and Settlement Supervision Act of 2010,'' was enacted to mitigate systemic risk in the financial system and to promote financial stability, in part, through an enhanced supervisory framework for FMUs that have been designated systemically important (designated FMUs) by the Financial Stability Oversight Council (Council).[1] Section 803(6) of the Act defines an FMU as a person that manages or operates a multilateral system for the purposes of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person. Pursuant to section 805(a)(1)(A) of the Act, the Board is required to prescribe risk-management standards governing the operations related to the payment, clearing, and settlement activities of certain designated FMUs.[2]

In July 2012, the Board adopted Regulation HH, Designated Financial Market Utilities, to implement, among other things, the statutory provisions under section 805(a)(1)(A) of the Act.[3] Regulation HH established two sets of risk-management standards for certain designated FMUs: One set of risk-management standards for designated FMUs that operate a payment system (§ 234.3(a)) and another set for designated FMUs that operate a central securities depository or a central counterparty (CCP) (§ 234.4(a)).[4] The Regulation HH risk-management standards do not apply to designated FMUs for which the U.S. Commodity Futures Trading Commission (CFTC) or the U.S. Securities and Exchange Commission (SEC) is the Supervisory Agency under Title VIII of the Dodd-Frank Act.[5]

In adopting Regulation HH, the Board considered relevant international standards that were in effect at the time the rule was proposed in March 2011 as well as the Board's *Federal Reserve Policy on Payment System Risk* (PSR policy).[6] In April 2012, CPSS and IOSCO published the PFMI, which updated, harmonized, strengthened, and replaced the previous international risk-management standards for payment systems that are systemically important, central securities depositories, securities settlement systems, and CCPs.[7] The PFMI is now widely recognized as the most relevant set of international risk-management standards for payment, clearing, and settlement systems.

In January 2014, the Board published for comment a notice of proposed rulemaking (NPRM) to revise the risk-management standards in Regulation HH based on the PFMI.[8] The revisions were proposed to replace the risk-management standards in §§ 234.3 and 234.4 with a common set of risk-management standards applicable to all types of designated FMUs in proposed § 234.3. The Board also made conforming changes to the definitions in proposed § 234.2. The public comment period for the proposed revisions closed on March 31, 2014.

[1] The Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376, was signed into law on July 21, 2010.

[2] The risk-management standards promulgated by the Board under section 805(a)(1)(A) apply to designated FMUs for which the Board is the Supervisory Agency. The term ''Supervisory Agency'' is defined in Title VIII as the ''Federal agency that has primary jurisdiction over a designated financial market utility under Federal banking, securities, or commodity futures laws'' (12 U.S.C. 5462(8)). Currently, the Board is the Supervisory Agency for two FMUs that have been designated by the Council—The Clearing House Payments Company, L.L.C., on the basis of its role as operator of the Clearing House Interbank Payments System, and CLS Bank International. These standards also apply to any designated FMU for which another Federal banking agency is the appropriate Title VIII Supervisory Agency. At this time, there are no designated FMUs in this category.

[3] 12 CFR part 234.

[4] At the time of the rulemaking, the Board acknowledged that designated FMUs that operate as central securities depositories or CCPs generally would be subject to the risk-management standards promulgated by the U.S. Commodity Futures Trading Commission (CFTC) or U.S. Securities and Exchange Commission (SEC). The Board, however, adopted standards for designated FMUs that operate as central securities depositories, CCPs, or both, to address the event that a designated FMU operates as one of the two types of FMUs and is not required to register as a derivatives clearing organization or a clearing agency with the CFTC or SEC, respectively.

[5] 12 CFR 234.1.

[6] The relevant international standards were the 2001 CPSS report on the *Core Principles for Systemically Important Payment Systems,* the 2001 CPSS–IOSCO report on the *Recommendations for Securities Settlement Systems,* and the 2004 CPSS–IOSCO report on the *Recommendations for Central Counterparties.* The Board previously incorporated these international standards into its PSR policy.

[7] The PFMI also establishes minimum requirements for trade repositories, which have emerged internationally as an important category of financial market infrastructure. The term ''financial market utility,'' as defined in Title VIII of the Act, excludes trade repositories.

[8] Concurrent with the NPRM, the Board issued in a separate **Federal Register** notice proposed revisions to part I of the PSR policy based on the PFMI. These revisions incorporated the headline standards from the 24 principles with no modification as the relevant risk-management standards for all central securities depositories, securities settlement systems, CCPs, and trade repositories, as well as certain payment systems. (79 FR 2838, January 16, 2014.)

II. Summary of Public Comments and Analysis

The Board received four public comment letters that were responsive to the NPRM, all from entities that operate designated FMUs. The Board considered each of these comments as well as subsequent staff analysis in developing its final rule as discussed below. Except as noted herein, the Board is adopting the rule text as proposed.[9]

A. Overall Approach

The Board proposed to amend Regulation HH by replacing the existing risk-management standards with a set of standards based on the PFMI and making conforming changes to the definitions. Commenters were generally supportive of the Board's overall approach. One commenter, however, raised two general concerns with respect to the Board's overall approach. The commenter expressed concern that one uniform set of standards that applies to all designated FMUs and all designs of the same type of designated FMU does not sufficiently take into account material differences that can be found among the same types of system. The commenter also expressed concern that differences in language between the risk-management standards in Regulation HH and in part I of the PSR policy may result in two different sets of risk-management standards for FMUs.

With respect to differences among types of systems, the Board believes that a uniform set of standards for all types of designated FMU is appropriate because all designated FMUs potentially face and must manage many of the same types of risk. Although the design of systems may vary, the flexibility in the standards allows individual designated FMUs to implement, and supervisors to enforce, the standards appropriately based on the design of and risks that arise in a particular designated FMU. The Board also believes that a uniform set of standards promotes financial stability because it facilitates effective and consistent risk management across different types of FMUs and markets. Furthermore, the Board has noted in the rule when a particular requirement applies only to certain types of designated FMU because of its specific design or function (for example, only designated FMUs that operate a CCP are required to have a risk-based margin system to cover credit risk). For these reasons, the Board continues to believe the overall approach is appropriate.

With respect to the differences in the language between Regulation HH and part I of the PSR policy, the Board continues to believe that such differences are appropriate. Regulation HH is an enforceable rule applicable to designated FMUs other than those supervised by the CFTC or SEC, so additional details from the key considerations and explanatory notes of the PFMI were incorporated in the rule text to provide greater clarity on the Board's expectations. The PSR policy, on the other hand, is a policy statement that provides guidance with respect to the Board's exercise of its other supervisory or regulatory authority over other financial market infrastructures (including those operated by the Federal Reserve Banks) or their participants, its participation in cooperative oversight arrangements for financial market infrastructures, or the provision of intraday credit to eligible Federal Reserve account holders. Incorporating the headline standards from the PFMI is consistent with the purpose of the document and the Board's long-standing principles-based approach to its PSR policy. Further, the Board has stated that it will be guided by the key considerations and the explanatory text of the PFMI in its application of the PSR policy. The Board does not intend for differences in language in the two documents to lead to inconsistent policy results.

B. Proposed § 234.2—Definitions

The Board proposed amendments to the definitions in § 234.2 by revising three definitions, adding six definitions, and deleting one definition.[10] The revisions were proposed for clarity and consistency with the revised risk-management standards. The Board received one comment letter that addressed several of the proposed changes to the definitions in § 234.2. The Board has revised the definitions of ''recovery'' and ''wind-down'' in response to these comments. In addition, the Board has decided to make clarifying edits to the proposed definition of ''link'' and to add a definition for ''trade repository.''

Recovery. The Board proposed to add a definition for the term ''recovery'' as used in proposed § 234.3(a)(3) and § 234.3(a)(15). The proposal defined ''recovery'' for the purposes of § 234.3(a)(3) and § 234.3(a)(15) as ''the actions of a designated financial market utility consistent with its rules, procedures, and other *ex-ante* contractual arrangements, to address any uncovered credit loss, liquidity shortfall, capital inadequacy, or business, operational or other structural weakness, including the replenishment of any depleted prefunded financial resources and liquidity arrangements, as necessary to maintain the designated financial market utility's viability as a going concern.'' The term ''recover'' was also used, with a different meaning, in proposed § 234.3(a)(17) on operational risk in the context of business continuity management.

The commenter requested clarification between ''recovery'' as used in proposed § 234.3(a)(3) and proposed § 234.3(a)(15) and ''recover'' as used in proposed § 234.3(a)(17). The commenter suggested that the concept of recovery is financial in nature and that the reference to operational weakness in the proposed definition concerns the financial impact of an operational issue. The Board agrees with the commenter's understanding of ''recovery'' as used in proposed § 234.3(a)(3) and proposed § 234.3(a)(15). The reference in the definition to the designated FMU's ''viability as a going concern'' is intended to indicate that the objective of the recovery plan is a return to financial health. Therefore, a designated FMU should consider in its recovery plan scenarios in which an operational event could cause the designated FMU to become insolvent. The use of ''recover'' in proposed § 234.3(a)(17), however, refers to a designated FMU's ability to recover and resume its critical operations and services in a timely manner after an operational disruption. This use of the term is operational in nature, not financial. The Board is making technical edits to the definition for clarity.

Wind-down. The Board proposed to add a definition for the term ''wind-down,'' which is used in proposed § 234.3(a)(3) and proposed § 234.3(a)(15). The proposal defined ''wind-down'' as ''the actions of a designated financial market utility to effect the permanent cessation, sale, or transfer of one or more of its critical operations or services.'' The commenter requested additional guidance on whether a wind-down plan should consider appropriate notice to participants and the market, or whether the plan should focus only on the amount of time required to wind down the corporate entity.

Although the commenter referred to the definition of ''wind-down'' in its

[9] The Board is also making several technical edits, which are not specifically addressed in the discussion below.

[10] The Board proposed deletion of the term ''payment system'' because it was not used in the proposed single set of standards for all designated FMUs. If, in the future, the Board revises Regulation HH to provide risk-management standards specific to payment systems, it anticipates, at that time, reinserting a definition of the term ''payment system,'' if necessary.

comment, the Board understands that the commenter is referring to the requirement in proposed § 234.3(a)(3) to develop and maintain a plan for an orderly wind-down. As stated in the proposed rule, the Board requires the designated FMU to plan for an orderly wind-down, which would include providing appropriate notice to the market to allow participants to transition to alternative arrangements in an orderly manner. This would likely require the designated FMU to assume a longer period for wind-down than if the requirement were only to wind down the corporate entity as quickly as possible. Given that the term ''wind-down'' is only used in the context of an ''orderly wind-down'' in the proposed rule, the Board has replaced the definition of ''wind-down'' with a definition for ''orderly wind-down.'' The new definition is intended to clarify that if a designated FMU were to wind down, it would be expected to do so in a manner that would not increase the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the U.S. financial system.

Link. The Board proposed to add a definition for ''link,'' which is used in proposed § 234.3(a)(20). The proposal defined ''link'' as ''for purposes of § 234.3(a)(20), a set of contractual and operational arrangements between two or more central counterparties, central securities depositories, or securities settlement systems that connect them directly or indirectly, such as for the purposes of participating in settlement, cross margining, or expanding their services to additional instruments and participants.''

Because of the difference in the definition of financial market infrastructure in the PFMI, which includes trade repositories, and financial market utility in the Dodd-Frank Act, which does not, this definition inadvertently excluded links to trade repositories. Upon further consideration, the Board has added these links to the definition for consistency with the PFMI, defined trade repository in § 234.2 as ''an entity that maintains a centralized electronic record of transaction data, such as a swap data repository or a security-based swap data repository,'' and made conforming changes to § 234.3(a)(20).

C. Governance

Proposed § 234.3(a)(2) outlined the requirements for a designated FMU's governance arrangements. The comments the Board received on the proposed rule are discussed below.

Support for public interest considerations. Proposed § 234.3(a)(2)(iii) required the designated FMU to have governance arrangements that support the stability of the broader financial system, other relevant public interest considerations, and the legitimate interests of relevant stakeholders. One commenter noted that public interest considerations is a vague concept, and that private-sector systems should not be required to consider public interest considerations and should focus exclusively on the needs of participants. The Board believes that, in addition to supporting the stability of the broader financial system, a designated FMU should support public interest considerations that are consistent with the other objectives of Title VIII of the Act to promote robust risk management, promote the safety and soundness of the designated FMU, and reduce systemic risks. For example, in the NPRM, the Board listed supporting fair and efficient markets as a possible relevant public interest consideration because a designated FMU that creates inefficiencies in the market may drive market participants toward less-safe alternatives that could increase systemic risks. Market transparency is another public interest consideration that may be relevant. For example, a designated FMU that provides information to relevant authorities and the public about payment flows may help to identify and reduce sources of systemic risk. For certain designated FMUs, however, stability of the broader financial system may be the predominant or only relevant public interest consideration.

Further, in the NPRM, the Board asked whether proposed § 234.3(a)(2)(iii) should specify ''other relevant public interest considerations'' for a specific type of or a particular designated FMU. One commenter responded that the examples given in the NPRM—fostering fair and efficient markets, market transparency, and investor protection—in combination with the Board's guidance through the supervisory process would be sufficient to assist a designated FMU in identifying relevant public interests. The Board is adopting the text of the rule as proposed.

Representation on the board of directors. Proposed § 234.3(a)(2)(iv)(D) required that the designated FMU's board of directors include a majority of individuals who are not executives, officers, or employees of the designated FMU or an affiliate. In the NPRM, the Board asked whether it should set a specific minimum percentage of these individuals on the board of directors and whether it should set any requirements for the participation of outside directors (that is, directors who are not participants in or executives, officers, or employees of the designated FMU or an affiliate). Commenters generally indicated that the final rule should retain flexibility on board representation and did not advocate for a change to the proposed text. The Board is adopting the text of the rule as proposed to provide some flexibility in the composition of the board of directors. The Board, however, believes that outside directors should exercise predominate influence over the board of directors to ensure robust governance and oversight of the designated FMU.

In the NPRM, the Board also asked whether there should be a requirement that the chair of the board of directors be (a) an individual who is not an executive, officer, or employee of the designated FMU or an affiliate of the designated FMU or (b) a different individual than the designated FMU's chief executive officer. One commenter responded that the chair of the board of directors should be an independent director. Although it believes designating an independent director as board chair generally results in more robust governance, the Board recognizes that other board structures, such as the appointment of a lead independent director, may achieve a similar outcome as having an independent director as board chair. Therefore, the Board is adopting the text of the rule as proposed to provide flexibility in the structure of the board of directors. If the Board has governance concerns regarding the FMU, however, it may ask, as part of the supervisory process, a designated FMU that has a single person serving as the chief executive officer and the board chair to consider splitting these roles or adding a lead independent director.

Performance reviews of the board of directors. Proposed § 234.3(a)(2)(iv)(E) required the board of directors to establish policies and procedures to review its own performance. In the NPRM, the Board asked whether there should be a requirement for these regular reviews to include periodic independent assessments of the board of directors. One commenter responded that an independent party should perform such reviews but that the precise frequency, scope, and specifics of the review should be determined by the designated FMU. An independent review of board performance is a good practice that can help strengthen the governance of the designated FMU. A designated FMU might consider conducting such reviews on a periodic basis. The Board has decided, however,

to retain flexibility with respect to the manner in which a designated FMU reviews performance of its board of directors. The Board is adopting the text of the rule as proposed. If the Board has governance concerns regarding the FMU, however, it may direct, through the supervisory process, a designated FMU to obtain an independent performance review of the board of directors.

Structure and composition of the committees of the board of directors. Proposed § 234.3(a)(2)(iv)(H)–(I) required that the risk-management and internal audit functions be overseen by a committee of the board of directors. In the NPRM, the Board asked whether the designated FMU's board of directors should be required to have a committee of the board of directors that has only audit responsibilities to which the audit function reports and a risk committee of the board of directors that has only risk-management responsibilities to which the risk-management function reports. The Board also asked whether, alternatively, the designated FMU's audit and risk-management functions should be required to report directly to the entire board of directors. One commenter stated that a designated FMU's board of directors should have an audit committee and a risk-management committee and that independent directors should chair board committees where possible. Another commenter stated that the structure of the audit and risk-management committees should be left to the designated FMU's discretion and that the audit and risk-management committees can be composed of professionals who are not members of the board of directors so long as there is reporting to the board of directors.

After further consideration, the Board agrees that the requirement should not be overly prescriptive with respect to the structure of board committees. The specific decisions regarding how the board of directors will structure its committees to oversee the audit and risk-management functions should be left to the designated FMU's discretion. The Board is adopting the text of the rule as proposed.

Reporting lines for the internal audit and risk-management functions. Proposed § 234.3(a)(2)(iv)(H)–(I) required that the risk-management and internal audit functions have sufficient authority, resources, and independence and that each have a direct reporting line to and be overseen by a committee of the board of directors. A commenter stated that a designated FMU's risk-management function should have a primary functional reporting line to the executive management of the designated FMU, whereas in the case of audit, the reporting line should be independent of executive management.

Although a reporting line from the risk-management function to executive management is certainly reasonable and useful, the Board believes that the risk-management function should have a reporting line to a committee of the board of directors to ensure that the risk-management function has sufficient independence from executive management. The proposed rule required the risk-management function to have a direct reporting line to a committee of the board of directors, but it does not preclude a reporting line to executive management as well. The Board is adopting the text of the rule as proposed.

D. Framework for the Comprehensive Management of Risks

Proposed § 234.3(a)(3) required a designated FMU to have a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, general business, custody, investment, and other risks that arise in or are borne by the designated FMU. One commenter raised several issues with the requirements in proposed § 234.3(a)(3), and they are discussed below.

Frequency of review of the risk-management framework. Proposed § 234.3(a)(3) required, among other things, that the framework for the comprehensive management of risks be subject to periodic review. In the NPRM, the Board asked whether it should establish an annual or longer minimum frequency of review for the overall framework. The commenter responded that the Board should not be overly prescriptive with respect to the review frequency, noting that different standards have different review frequencies and that establishing a general review frequency for the comprehensive risk-management framework could be duplicative or contradict the review frequencies in other proposed standards. The Board agrees that a specific frequency for review is not necessary, and is adopting the proposed text in § 234.3(a)(3) regarding periodic review for the overall framework.

Requirement to maintain plans for recovery and orderly wind-down. Proposed § 234.3(a)(3)(iii) required that a designated FMU's risk-management framework include plans for the designated FMU's recovery or orderly wind-down that contain the elements listed at proposed § 234.3(a)(3)(iii)(A) to (F). The commenter stated that a designated FMU's regulator should have the discretion to determine if the designated FMU would be required to produce both a recovery plan and an orderly wind-down plan.

The Board understands that there may have been some ambiguity regarding whether proposed § 234.3(a)(3)(iii) required both a recovery plan and an orderly wind-down plan or just one of the two. The Board expects a designated FMU to prepare plans for both recovery and orderly wind-down. Recovery plans should not be based on assumptions of government intervention or support. In addition, the Board believes that the recovery and orderly wind-down plans should be integrated because there may be circumstances in which a designated FMU attempts to recover but the recovery effort eventually fails. In such circumstances, the designated FMU should have a plan as well as sufficient capital to transition to and execute an orderly wind-down. The Board is therefore clarifying in § 234.3(a)(3)(iii) that a designated FMU must prepare integrated plans for recovery and orderly wind-down.[11] The Board is also making conforming edits in § 234.3(a)(3)(iii)(C) through (F) and, for greater clarity, has revised the requirement in § 234.3(a)(15)(i)(A) with respect to the cost to implement the plans to refer back to the requirements in § 234.3(a)(3)(iii).

Scenarios addressed by recovery and orderly wind-down plans. Proposed § 234.3(a)(3)(iii)(B) required that a designated FMU's plans identify scenarios that may potentially prevent the FMU from being able to provide its critical operations and services as a going concern, including uncovered credit losses, uncovered liquidity shortfalls, and general business losses. The commenter noted that such scenarios should contemplate severe and extreme scenarios and that each scenario should be distinct so that the analysis of the scenarios would not be duplicative. The Board agrees that the scenarios addressed by recovery and orderly wind-down plans should include severe and systemic stress events beyond those contemplated by business continuity planning, normal crisis-management, or failure-management tools. In particular, as indicated by the reference to the designated FMU's inability to continue

[11] As noted above, the compliance date for preparing plans for recovery and orderly wind-down is December 31, 2015. Designated FMUs are encouraged to share with supervisors drafts of these plans, as well as other required plans, procedures, or documents, in advance of the compliance date so that final versions are in place by December 31, 2015.

as a going concern, these scenarios involve shocks that could potentially cause the designated FMU to become insolvent and cease operations. The Board also agrees that such scenarios should be sufficiently distinct so the analysis related to a particular scenario is not duplicative. The Board believes, however, that the text of the rule is sufficiently clear on these points. The Board is adopting the text of the rule as proposed.

Triggers for implementation of recovery and orderly wind-down plans. Proposed § 234.3(a)(3)(iii)(C) required that a designated FMU's plans identify criteria that could trigger the implementation of the recovery or orderly wind-down plans. The commenter stated that the designated FMU should have discretion to decide whether it will continue its services that are deemed noncritical, provided that the financial consequences are not material to its ability to operate the critical services. The commenter also noted that that triggers should be flexible and that management, working with its regulators and other stakeholders, should make the decision whether to trigger the plan based on the relevant facts and circumstances of the given situation. Finally, the commenter noted that triggers should not be required to be defined solely in quantifiable or monetary terms.

The Board agrees with the comments provided on the triggers for the implementation of the recovery and orderly wind-down plans. The designated FMU would have discretion to decide whether it will continue its noncritical services, as long as the decision would not impair its ability to recover its critical operations and services or to wind them down in an orderly manner. Also, the decision to trigger a recovery or orderly wind-down plan will depend on the relevant facts and circumstances at the time and any such decision will likely include discussions between the designated FMU and its supervisor. This is consistent with the requirement in proposed § 234.3(a)(3)(iii)(F) that the recovery and orderly wind-down plans include procedures for informing the Board if the designated FMU is considering initiating one of the plans. The Board did not propose inclusion of automatic triggers based solely on quantifiable or monetary terms and is not adopting such terms in the final rule.

Requirement for rules, procedures, policies, and tools for recovery and orderly wind-down plans. Proposed § 234.3(a)(3)(iii)(D) required that the plans include rules, procedures, policies, and any other tools the designated FMU would use in a recovery or orderly wind-down to address the scenarios addressed in proposed § 234.3(a)(3)(iii)(B). The commenter stated that the application of certain tools, such as expense reduction or refinancing, will depend on the circumstances at the time of distress and therefore may not fit well into the designated FMU's ''rules, policies, and procedures.'' The Board believes that if a designated FMU contemplates using a particular type of tool in the event of a recovery or orderly wind-down, it should develop rules, policies, and procedures to provide a basis for using the tool as well as transparency to its participants regarding how the tool may be used. The Board expects the designated FMU to provide as much detail in the rules, policies, and procedures as possible, but recognizes that some components may need to be general, because the specific implementation of the tool may depend on the circumstances. The Board is not revising the final rule in response to this comment.

Requirements for informing the Board of initiation of the recovery or orderly wind-down plan. Proposed § 234.3(a)(3)(iii)(F) required that the designated FMU have procedures to inform the Board, as soon as practicable, if it is considering initiating the recovery or orderly wind-down plan. The commenter stated that certain tools, such as loss allocation, could be triggered automatically pursuant to ex ante agreements. In such circumstances, a notification to the Board could be contemporaneous with or after use of such tools. The Board believes that a designated FMU should notify the Board that it is considering initiating the recovery or orderly wind-down plan before initiating the relevant plan if at all possible. If there are specific tools or elements of a plan that may be activated automatically, the requirement proposed in § 234.3(a)(3)(iii)(F) that notification be ''as soon as practicable'' permits the designated FMU, in such circumstances, to provide notification contemporaneous with or immediately after use of such tools. Accordingly, the Board is not revising the final rule in response to this comment.

Frequency of review of recovery and orderly wind-down plans. The proposed rule did not specify a frequency of review for the recovery and orderly wind-down plans required under proposed § 234.3(a)(3)(iii), but the Board stated in the NPRM that these plans should be reviewed and tested at least annually or following material changes to the designated FMU's operations or risk profile. The commenter urged that such reviews occur every other year, assuming no interim material change in the designated FMU's risk exposure, as this frequency would provide sufficient time to amend, draft, negotiate, and discuss any such changes with stakeholders. The commenter also noted this frequency would be aligned with the requirements for public disclosure in proposed § 234.3(a)(23)(v).

The Board agrees that a designated FMU should review its recovery and orderly wind-down plans the earlier of every two years or following changes to the designated FMU or the environment in which it operates that would significantly affect the viability or execution of the plans. After considering the comments, the Board believes a minimum requirement for review of the plans of every two years is more appropriate than an annual review because an annual review cycle may not allow sufficient time to analyze, discuss with stakeholders and supervisors, and implement any required changes. The Board is revising the rule text to clarify the requirement in § 234.3(a)(3)(iii)(G) that the designated FMU review the plans the earlier of every two years or following changes to its system or the environment in which it operates that would significantly affect the viability or execution of the plans.

E. Credit Risk

Proposed § 234.3(a)(4) required a designated FMU to measure, monitor, and manage effectively its credit exposures to its participants and the credit exposures arising from its payment, clearing, and settlement processes. The Board received two comments on this proposed provision that are addressed below.

Replenishment of financial resources. Proposed § 234.3(a)(4)(vi)(B) required that a designated FMU establish rules and procedures that explicitly describe the designated FMU's process to replenish financial resources employed during a stress event. One commenter noted that circumstances would dictate how a designated FMU manages the replenishment of financial resources employed in a stress scenario and that the Board should revise the proposed rule to allow greater flexibility. The Board acknowledges that the details of the replenishment process may depend on the particular circumstances that the designated FMU faces in a stress event and that it may not be possible to predict fully the future. The rules and procedures regarding replenishment, however, should be explicit and as specific as possible in order to provide

guidance to the designated FMU's staff, participants, and other stakeholders during an actual stress event. Moreover, given that a designated FMU cannot predict the exact circumstances it may face, its rules and procedures for replenishment should address a wide range of potential circumstances. The Board is adopting the text of the rule as proposed.

Triggers for a ''cover 2'' requirement. Proposed § 234.3(a)(4)(ii) provided that the Board may direct a designated FMU that operates as a CCP to maintain additional prefunded financial resources that are sufficient to cover its credit exposure under a wide range of significantly different stress scenarios, including the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure to the CCP in extreme but plausible market conditions (a ''cover 2'' requirement). The proposal stated further that the Board may direct such a CCP to meet a ''cover 2'' requirement if it either is involved in activities with a more-complex risk profile, such as clearing financial market instruments characterized by discrete jump-to-default price changes or that are highly correlated with potential participant defaults, or has been determined by another jurisdiction to be systemically important in that jurisdiction.

A commenter stated that, in applying this provision, the Board should also consider ''the proportion of the CCP's clearing activities involving products with complex risk profiles as well as the manner in which the CCP manages those risks.'' The commenter asked the Board to confirm that the ''cover 2'' requirement would not be triggered if a CCP has a small amount of activity with a complex risk profile relative to overall activity or if the CCP addresses the added risk incurred, such as through enhanced margin systems. In making its determination with respect to a ''cover 2'' requirement, the Board would consider all relevant facts and circumstances, including the CCP's product mix and risk profile. Except for minor technical edits, the Board is adopting the text of the rule as proposed.[12]

F. Collateral

Proposed § 234.3(a)(5) required a designated FMU that uses collateral to manage its or its participants' credit exposure to accept collateral with low credit, liquidity, and market risks and to set and enforce appropriately conservative haircuts and concentration limits. One commenter supported flexibility in the wording of the requirement and urged that it not be interpreted to exclude the use of equity securities as collateral for equity options. The Board believes that the text in proposed § 234.3(a)(5) retains the necessary flexibility to permit, where appropriate, a designated FMU to integrate the management of risk from participant positions with the risk from fluctuations in the value of collateral provided by participants. One example would be for the designated FMU to hold equity securities as collateral for options on those same securities. Therefore, the Board is adopting the text of the rule as proposed.

G. Liquidity Risk

Proposed § 234.3(a)(7) required a designated FMU to measure, monitor, and manage effectively the liquidity risk that arises in or is borne by the designated FMU. The comments received on specific elements of the liquidity risk-management requirements are discussed below.

Participants' affiliates. Under proposed § 234.3(a)(7)(ii), a designated FMU was required to maintain sufficient liquid resources in all relevant currencies to effect same-day and, as applicable, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of significantly different potential stress scenarios, including the default of the participant and its affiliates that would generate the largest aggregate liquidity obligation for the designated FMU in extreme but plausible market conditions.[13] One commenter stated that the inclusion of the liquidity obligations of a defaulting participant's affiliates in calculating the largest aggregate liquidity obligation in proposed § 234.3(a)(7)(ii) should be clarified or removed because ''a designated FMU may not have the authority to demand detailed information on participants' affiliates, particularly for affiliates in peripheral lines of business.''

The Board believes this requirement is sufficiently clear as written. Participants' affiliates that would generate liquidity obligations to the designated FMU would be known to the designated FMU. Such affiliates may include affiliates that are also participants in the designated FMU, liquidity providers to the designated FMU, and custodians of the assets held in accounts for the designated FMU. Affiliates in peripheral lines of business would be unlikely to generate liquidity obligations to the designated FMU. Therefore, the Board is retaining the text of the rule as proposed.

Qualifying liquid resources. For purposes of meeting the liquid resource requirement under proposed § 234.3(a)(7)(ii), proposed § 234.3(a)(7)(iii) required the designated FMU to maintain these liquid resources in cash in each relevant currency at the central bank of issue or at creditworthy commercial banks, or in assets that are readily available and convertible into cash through committed arrangements without material adverse change conditions. These committed arrangements included, but were not limited to, collateralized lines of credit, foreign exchange swaps, and repurchase agreements. Proposed § 234.3(a)(7)(iii) required these arrangements to be committed in order to ensure that the resources are highly reliable even in extreme but plausible market conditions.[14]

A commenter stated that meeting the minimum liquid resource requirement in proposed § 234.3(a)(7)(ii) with only cash and committed arrangements, as required in proposed § 234.3(a)(7)(iii), would be challenging for cash market CCPs and their participants. Furthermore, the commenter stated that requiring committed arrangements for sovereign debt, such as U.S. Treasury securities, is inconsistent with CFTC's final rule for systemically important derivatives clearing organizations, the SEC's proposed rules for covered clearing agencies, and the rules for financial market infrastructures in foreign jurisdictions, and that requiring committed arrangements could

[12] The Board has revised § 234.3(a)(4)(ii) to clarify that it is the Board that makes the determination with respect to a ''cover 2'' requirement.

[13] The Board believes that deliveries of currency are payment obligations, rather than physical deliveries under § 234.3(a)(10), and expects a designated FMU subject to Regulation HH to manage effectively the liquidity risk related to these payments.

[14] The Board recognized that the language on qualifying liquid resources under Principle 7 of the PFMI is phrased differently. Principle 7 requires qualifying liquid resources to be, among other things, highly marketable collateral held in custody and investments that are readily available and convertible into cash with ''prearranged and highly reliable'' funding arrangements. The Board has had a longstanding expectation that FMUs under its authority maintain cash or committed arrangements for converting noncash assets into cash to meet the minimum liquidity resource requirement. The Board believes that, in order for arrangements to be ''highly reliable,'' they must be ''prearranged and committed.'' The legal enforceability of committed arrangements helps to ensure obligations will be fulfilled even in extreme but plausible market conditions. The Board recognizes, however, that such commitments do not guarantee performance. Supplemental resources beyond amounts needed to meet the minimum liquid resource requirement in § 234.3(a)(7) may be obtained on an uncommitted basis.

significantly reduce the total amount of liquidity available to CCPs. The commenter also stated that the proposal is inconsistent with the Board's treatment of Treasury securities for systemically important financial institutions (SIFIs) under the Board's Liquidity Coverage Ratio rule. The commenter recommended that uncommitted arrangements for converting U.S. Treasury securities into cash, such as customary repurchase agreements or pre-established dealer accounts to facilitate same-day market sales, be included as qualifying liquid resources.

After consideration of the comments, the Board has determined not to include uncommitted arrangements for U.S. Treasuries as qualifying liquid resources. The Board believes that legal enforceability of committed arrangements helps to ensure that obligations are fulfilled even in extreme but plausible market conditions. For example, the Board believes committed arrangements provide an additional level of assurance that U.S. Treasury securities would be converted into cash in large quantities on a same-day basis, even in stressed market conditions. Furthermore, the Board believes a more-robust requirement is necessary for designated FMUs than for SIFIs because the timely completion of settlement is an essential function of an FMU and an explicit expectation of the Board for these entities. The failure of an FMU to complete settlement as expected can create broader liquidity dislocations and undermine confidence in the FMU's ability to manage effectively a default by absorbing rather than transmitting shocks to the financial system.

After consideration of the comments, however, the Board has added a new category of liquidity arrangements in § 234.3(a)(7)(iii)(C) of the final rule that would allow prearranged uncommitted arrangements for converting noncash assets into cash to be considered qualifying liquid resources if they are determined by the Board to be highly reliable in extreme but plausible market conditions. The Board is adding this category in order to allow flexibility for future innovation in arrangements for converting noncash assets into cash on a same-day basis. The Board believes that including this category improves consistency with the text of the CFTC's final rule and the SEC's proposed rule. The Board is also adopting conforming edits to § 234.3(a)(7)(iv) in the final rule.

Testing. Proposed § 234.3(a)(7) contained multiple testing requirements for the management of liquidity risk. Proposed § 234.3(a)(7)(iv) required a designated FMU to evaluate and confirm, at least annually, whether each provider of its committed liquidity arrangements has sufficient information to understand and manage that provider's associated liquidity risks and whether the provider has the capacity to perform as required under the commitment. Proposed § 234.3(a)(7)(v) required the designated FMU to maintain and test its procedures and operational capacity for accessing each type of its liquid resources at least annually. Proposed § 234.3(a)(7)(vi) required the designated FMU to determine the amount and regularly stress-test the sufficiency of the liquid resources necessary to meet the minimum liquid resource requirement (A) daily using standard and predetermined stress scenarios, parameters, and assumptions and (B) at least monthly through a comprehensive and thorough analysis of the existing stress scenarios, models, and underlying parameters and assumptions. Proposed § 234.3(a)(7)(viii) required an annual validation of the designated FMU's liquidity risk-management model.

A commenter stated that the testing of the procedures and operational capacity for accessing liquid resources required by proposed § 234.6(a)(7)(v) should not cause disruption to the designated FMU's participants or involve the use of large amounts of participant funds. The commenter also suggested generalizing the requirement in proposed § 234.6(a)(7)(vi)(B) to perform monthly stress testing and avoid being overly prescriptive because the monthly review requirement may not be appropriate for all models or all types of designated FMUs.

The Board agrees that none of the testing requirements need to be or should be met in a manner that would cause significant disruption to the designated FMU's participants or the market or involve the use of large amounts of participant funds. In addition, after consideration of the comments, the Board continues to believe that the requirement in § 234.3(a)(7)(vi) to perform an analysis of the existing stress scenarios, models, and underlying parameters and assumptions at least monthly is appropriate. The Board believes that all designated FMUs should assess the effectiveness of their stress testing at least monthly to ensure that the designated FMU will not neglect to consider any relevant new information in its stress-testing methodology and that the stress tests continue to be appropriate for achieving the designated FMU's identified liquidity needs in light of current and evolving market conditions. The Board is adopting the text of the rule as proposed.

H. Settlement Finality

Proposed § 234.3(a)(8) required, in part, the designated FMU to provide clear and certain final settlement intraday or in real time as appropriate, and at a minimum, by the end of the value date. One commenter requested confirmation that the proposed provision would not require a designated FMU that is a CCP to accelerate its novation of certain noncompetitive transactions, such as backloaded over-the-counter options. The proposed requirement in § 234.3(a)(8) applied to a designated FMU's obligations to deliver funds and other financial instruments, at a minimum, by the end of the value date in accordance with the terms of the underlying contract, and did not address the timing of novation. The Board is adopting the text of the rule as proposed.

I. Participant-Default Rules and Procedures

Proposed § 234.3(a)(13) required the designated FMU to have effective and clearly defined participant-default rules and procedures that are designed to ensure that the designated FMU can take timely action to contain losses and liquidity pressures and continue to meet its obligations. The proposal also required the designated FMU to test and review its default procedures, including any closeout procedures, at least annually or following material changes to these rules and procedures. One commenter stated that the required testing should not be so extensive as to cause disruption to the designated FMU's members, participants, or broader financial markets, nor require the use of participant funds, nor unnecessarily stress the designated FMU's critical services.

The Board agrees that any testing pursuant to the requirement in proposed § 234.3(a)(13) should not cause disruption to the designated FMU's members, participants, or broader financial markets. To the extent such testing would require use of participant funds, it would likely be limited to small or *de minimus* amounts. The Board is adopting the text of the rule as proposed.

J. Segregation and Portability

Proposed § 234.3(a)(14) required a designated FMU that operates as a CCP to have rules and procedures that enable the segregation and portability of positions of a participant's customers and the collateral provided to the

designated FMU with respect to those positions. The Board received two comment letters on this proposed rule that addressed portability requirements and alternative segregation regimes.

Portability requirement. One commenter noted that while porting positions is a highly desirable result when feasible, there may be scenarios in which liquidating positions is preferred. The commenter suggested that the rule text permit a designated FMU to retain broad discretion to liquidate positions promptly where it has determined that timely transfer would not be feasible. The proposed rule requires that the designated FMU's rules and procedures enable the segregation and portability of positions, and does not exclude the possibility that liquidation of positions may take place if a timely transfer would not be feasible. For these reasons, the Board is adopting the text of the rule as proposed.

Alternative segregation regimes. One commenter encouraged the Board to retain the flexibility to permit different segregation regimes as appropriate for different markets and different classes of market participant. Another commenter requested that the final text of the rule acknowledge the different legal frameworks for cash markets. The Board acknowledged in the NPRM that effective segregation and portability arrangements depend not only on the operational capabilities of the designated FMU but also on the applicable legal framework. The Board notes that a CCP serving certain cash markets, for example, may operate in a legal regime that offers the same degree of protection for a participant's customers as the segregation and portability approaches under proposed § 234.3(a)(14). Where an alternative regime exists, the Board will consider the CCP's assessment of whether the applicable legal or regulatory framework achieves the same degree of protection and efficiency for customers that would otherwise be achieved by segregation and portability arrangements at the CCP level described in the proposed requirement. Additionally, the Board will review whether the CCP's own rules enable the operation of the relevant legal and regulatory framework. The Board believes segregation and portability arrangements may differ depending on the design of and the products and markets served by the CCP and would work with any applicable designated FMU through the supervisory process to determine how best to meet the requirements in § 234.3(a)(14).

Where alternative segregation and portability arrangements offer the same degree of protection, proposed § 234.3(a)(14) would not prohibit the use of such arrangements. As noted above, the requirement is that the designated FMU's rules and procedures enable segregation and portability of positions and does not prescribe a single means by which this could be achieved. The Board is adopting the text of the rule as proposed.

K. General Business Risk

Proposed § 234.3(a)(15) required a designated FMU to identify, monitor, and manage its general business risk. To this end, proposed § 234.3(a)(15)(i) required a designated FMU to maintain unencumbered liquid financial assets that are sufficient to cover the greater of the cost to implement the designated FMU's recovery or orderly wind-down plan to address general business losses or six months of current operating expenses. This provision also required a designated FMU to hold equity that is greater than or equal to the amount of unencumbered liquid financial assets held to meet the requirement. Proposed § 234.3(a)(15)(ii) required a designated FMU to maintain and update annually a plan for raising additional equity before the designated FMU's equity falls below the amount required under § 234.3(a)(15)(i).

The Board received four comment letters that addressed this provision. The commenters generally supported proposed § 234.3(a)(15) but raised specific concerns that are discussed below.

Recovery and orderly wind-down plans. Proposed § 234.3(a)(15)(i)(A)(*1*) referred to the cost to implement the recovery or orderly wind-down plan to address general business losses as required under proposed § 234.3(a)(3)(iii) as one possible determinant of the amount of liquid net assets funded by equity the designated FMU must hold. One commenter stated that recovery and orderly wind-down plans should be calibrated to take into account the existence of alternative systems or arrangements that provide similar services to those of the designated FMU. The Board expects that the designated FMU will take into consideration in its recovery and orderly wind-down plans any viable alternatives to its critical operations and services. The commenter did not suggest any changes to the proposed rule text on this point. For clarity and to streamline the rule text, however, the Board is revising § 234.3(a)(15)(i)(A)(*1*) to require the designated FMU to cover the cost to implement the plans to address general business losses as required under § 234.3(a)(3)(iii).

Required amount of unencumbered liquid financial assets. Proposed § 234.3(a)(15)(i)(A) required a designated FMU to hold unencumbered liquid financial assets equal to the greater of the cost to implement its recovery or orderly wind-down plan to address general business losses or six months of current operating expenses or as otherwise determined by the Board. Two commenters provided comments on the type of operating expenses that should be included in the calculation of six months of current operating expenses. Both stated that the requirement to hold unencumbered liquid financial assets and equity to fund current operating expenses would overstate the amount actually needed in a recovery or orderly wind-down scenario because an FMU that suffers losses will likely eliminate or reduce certain expenses, such as travel and marketing expenses. The commenters proposed that the amount be calculated instead as the current expenses required to operate the FMU's critical operations and services in such a scenario.

After consideration of the comments, the Board continues to believe that the calculation of six months of current operating expenses (or as otherwise determined by the Board) should include all business-as-usual operating expenses. Although certain expenses may decrease in a recovery or orderly wind-down, the Board believes that certain other expenses, such as legal and consulting fees, would likely increase in a recovery or orderly wind-down scenario and that it is difficult to predict the net effect on the designated FMU's expenses in such a scenario. Therefore, the requirement to hold six months of business-as-usual operating expenses (or as otherwise determined by the Board) is intended to set a floor for the designated FMU's holdings of unencumbered liquid assets and equity that is independent of the assumptions about the specifics of the recovery and orderly wind-down scenarios as well as easy to calculate and verify because the information is included on the designated FMU's income statement. The Board, however, does expect that if the designated FMU foresees significant and lasting increases or decreases in its business-as-usual operating expenses due to structural or other changes to the designated FMU's operating environment, the designated FMU will include this information in its calculation. For these reasons, the Board is adopting § 234.3(a)(15)(i)(A)(*2*) as proposed.

Type of liquid assets required. Proposed § 234.3(a)(15)(i)(A) would require the designated FMU to hold

unencumbered liquid financial assets, such as cash or highly liquid securities. One commenter stated that a designated FMU should be able to include as unencumbered liquid financial assets revenues that are projected to be received by the designated FMU over the same six-month period, subject to an appropriate haircut, because the designated FMU may be able to expect to continue to generate fees in a recovery or orderly wind-down scenario.

The intent of the proposed standard, however, is to ensure that the designated FMU has the necessary liquid assets and equity on hand at any particular time. Projected revenues would not meet the requirement because projected revenues are not assets held on the balance sheet. Furthermore, the Board does not consider accounts receivable to qualify as unencumbered liquid financial assets under this provision because the funds associated with those receivables have not yet been collected and therefore are not available for immediate use. In a recovery or orderly wind-down scenario, the designated FMU may not be able to collect its accounts receivable in the amounts expected because market participants may be unable to pay amounts owed to the designated FMU. For these reasons, neither projected revenues nor accounts receivable should be included in types of unencumbered liquid financial assets held to meet the requirement in proposed § 234.3(a)(15)(i)(A).

It may be appropriate, however, for a designated FMU to consider its expected revenues, subject to an appropriate haircut, in its calculation of the cost to implement its recovery and orderly wind-down plans. Depending on the structure of the market it serves, a designated FMU may expect to earn revenues in a recovery or orderly wind-down scenario that could partially offset the cost of recovering or winding down. The size of the haircut applied to the expected revenues would likely need to reflect this market structure. For example, a designated FMU that operates in a market with viable alternatives to the services of the designated FMU should not assume that it would receive a large amount of revenue during an orderly wind-down.

Type of equity required. Proposed § 234.3(a)(15)(i)(B) lists common stock, disclosed reserves, and other retained earnings as examples of equity that should be held to meet the requirement. Two commenters stated that noncumulative perpetual preferred stock should be included in the types of equity allowed to meet the requirements in proposed § 234.3(a)(15)(i)(B) because some designated FMUs do not have ready access to public capital markets to replenish capital. One of these commenters also stated that such stock should be redeemable at the discretion of the designated FMU after five years.

Proposed § 234.3(a)(15)(i)(B) provided a non-exhaustive illustrative list of types of equity that would be acceptable. There may be other types of equity, in addition to common stock, disclosed reserves, and other retained earnings, that could be held to meet the requirement in proposed § 234.3(a)(15)(i)(B). The purpose of the requirement is to ensure that the designated FMU can absorb general business losses on an ongoing basis. Equity that has characteristics similar to debt will not be counted toward the requirement. Designated FMUs should work with supervision staff to assess whether specific equity holdings meet the intent of the requirement. The Board is adopting the text of the rule as proposed.

Application of § 234.3(a)(15)(i) to a DFMU that is part of a larger legal entity. In the NPRM, the Board asked whether the proposed rule should require a designated FMU that is part of a larger legal entity to take into account, when calculating the cost to implement its recovery and orderly wind-down plans, recovery or wind-down scenarios in which other business lines in the legal entity or the legal entity itself may face an adverse business environment. One commenter stated that a designated FMU should consider ''any adverse environment that may be faced by the other business lines within the legal entity, or by the legal entity itself.'' Another stated that the FMU should ''treat the service that caused it to be designated as systemically important as a separate division of the company and require liquid assets and capital to be earmarked for that service, so that the company's other services are not taken into account when calculating these requirements.''

In the NPRM, the Board also asked, for a designated FMU that is engaged in several business lines, but is designated as systemically important for purposes of Title VIII of the Dodd-Frank Act for only one of those business lines, whether there are any reasonable methodologies for determining which of the liquid net assets and equity held at the legal entity level belong to a particular business line. As a single legal entity, the firm's equity supports all the business lines, but it is a designated FMU for purposes of Title VIII of the Dodd-Frank Act with respect to only one of those business lines. One commenter stated that ''it is difficult to determine the capital specific to a designated FMU when the designated FMU is part of a larger legal entity'' and that ''in insolvency it may not be possible to ring-fence assets within a legal entity.'' Another commenter suggested, however, that separate pro forma balance sheets and income statements could be created for a particular business line.

After consideration of the comments, the Board has determined to adopt the rule text as proposed. When developing its recovery and orderly wind-down plans and calculating the cost of implementing those plans, a designated FMU that also engages in business lines for which it has not been designated by the Council under Title VIII should consider business shocks to other business lines if those shocks could potentially cause the designated FMU to need to recover or wind down the critical operations and services of the business line for which it has been designated. When calculating six months of current operating expenses (or as otherwise determined by the Board), however, the designated FMU may include only the current operating expenses of the business line for which it was designated rather than the current operating expenses of the whole legal entity.[15] Furthermore, when determining whether the designated FMU has sufficient unencumbered liquid financial assets and equity on its balance sheet to equal or exceed the greater of the cost to implement the recovery and orderly wind-down plans to address general business losses or six months of current operating expenses, the designated FMU may use the assets and equity held at the legal entity level that would be available to meet the requirement rather than having to attribute assets and equity to a certain business line.

Content of the plan for raising additional equity. Proposed § 234.3(a)(15)(ii) required the designated FMU to maintain a viable plan for raising additional equity before the designated FMU's equity falls below the amount required in proposed § 234.3(a)(15)(i). Two commenters stated that raising equity may take time, especially in stressed market conditions. Another commenter suggested that the designated FMU have a cushion above the required amount as an alternative to a plan to raise capital before equity falls below the minimum amount.

[15] The designated FMU's current operating expenses should include the designated FMU's share of overhead and support costs and any cost of shared services that are allocated to the designated FMU.

Commenters also suggested methods for raising equity, such as a committed contingent funding plan or a refinancing plan involving a loan until an orderly equity recapitalization can be executed. A commenter also suggested that the designated FMU should consider the probability of an event that could cause equity to fall below the required amount and the period over which the event is likely to occur.

The Board agrees that it may not be possible in all cases to have a viable plan to raise equity before the designated FMU's equity falls below the required amount. Business shocks may cause equity levels to fall rapidly and unexpectedly and in circumstances under which it may be difficult to raise capital quickly. The Board does not believe, however, that the rule should specify the features of the plan or the methods for raising capital, because the details of the plan will depend on the ownership structure of the designated FMU and the environment in which it operates. Therefore, the Board is modifying the text of proposed § 234.3(a)(15)(ii) to require a designated FMU to maintain a viable plan for raising equity *should its equity fall below* the amount required under proposed § 234.3(a)(15)(i).

Schedule for updating the plan for raising additional equity. Proposed § 234.3(a)(15)(ii) required the designated FMU to update its plan for raising additional equity at least annually. One commenter stated that the plan should be reviewed every three years instead of annually. The commenter also stated that the plan could be reviewed more frequently when there are material changes to the designated FMU's financial position or to the capital markets.

After consideration of the comment, the Board agrees that annual review of the plan may not be necessary in the absence of material changes to the designated FMU's financial position or to the capital markets. The Board believes, however, that the plan should be reviewed at least every other year, consistent with the required review frequency of the recovery and orderly wind-down plans in § 234.3(a)(3)(iii)(G) and the public disclosure in § 234.3(a)(23)(vi). For these reasons, the Board is modifying proposed § 234.3(a)(15)(ii) to require a designated FMU to update its plan the earlier of every two years or following changes to the designated FMU or the environment in which it operates that would significantly affect the viability or execution of the plan.

L. Operational Risk

Proposed § 234.3(a)(17) required a designated FMU to manage its operational risks by establishing a robust operational risk-management framework, which includes a business continuity plan. Proposed § 234.3(a)(17)(vii)(B) required a designated FMU to have a business continuity plan that is designed to ensure that critical information technology systems can recover and resume operations no later than two hours following disruptive events. One commenter stated that ensuring that critical information technology systems can meet the two-hour recovery objective in the case of an extreme cyberattack could be very costly and require substantial changes to the designated FMU's production infrastructure, potentially including creating additional replicas of production infrastructure and systems. The commenter supported the Board's proposal in the NPRM to address reasonable approaches to preparing for potential extreme cyberattacks through the supervisory process.

The Board believes that it is imperative to financial stability that a designated FMU be able to recover and resume operations quickly after disruptive events and to complete settlement by the end of the day of the disruption. For many types of disruptive scenarios, such as a wide-scale physical disruption, the technology and methods exist to enable a designated FMU to recover and resume operations within two hours of the disruption. The Board understands, however, that certain threats to the designated FMU's operations as well as the technology to mitigate those threats are continually evolving. The Board expects that a designated FMU's business continuity planning will be a dynamic process in which the designated FMU works on an ongoing basis to update its plan to recover and resume operations no later than two hours following disruptive events and to complete settlement by the end of the day of the disruption, even in extreme circumstances. In areas where threats and technology are evolving, such as is the case for certain extreme cyberattacks, the Board recognizes that it may not be possible at this time for the designated FMU to recover within two hours. In such cases, the Board will work with the designated FMU through the supervisory process to identify reasonable approaches to preparing for and recovering from such attacks. The Board is revising proposed § 234.3(a)(17)(vii)(B) to indicate this intent.

The Board is also making a technical edit to § 234.3(a)(17)(ii) to clarify that a designated FMU should identify, monitor, and manage the material risks its operations may pose to trade repositories as well as to other financial market utilities. As mentioned above, because of the differences in the definition for financial market infrastructure in the PFMI, which includes trade repositories, and the definition of financial market utility in the Dodd-Frank Act, which does not, the Board inadvertently excluded consideration of risks posed to trade repositories.

M. Tiered Participation Arrangements

Proposed § 234.3(a)(19) required a designated FMU to identify, monitor, and manage the material risks to the designated FMU arising from tiered participation arrangements. These arrangements are those in which firms that are not members in the designated FMU (indirect participants) rely on the services provided by members (direct participants) of the designated FMU to access the designated FMU's payment, clearing, and settlement facilities.

Three commenters addressed this provision of the proposed rule. Two commenters opposed the adoption of the provision as drafted. The third commenter supported the proposal.

Applicability of the proposed requirements. Two commenters addressed the applicability of the proposed requirements to them. One commenter opposed the proposed rule because it does not believe that it or its participants bear any significant risk from its participants' relationships with their customers. Another commenter supported the view that a designated FMU needs to understand the risks associated with the relationships between direct participants and their customers in order to be able to understand and assess what risks, if any, the tiered arrangements may present to the designated FMU and its other participants. This commenter mentioned that it had developed a document that identifies risks that arise from tiered participation arrangements and best practices for mitigating these risks. This commenter also monitors settlement and funding metrics for indirect participants, and encourages indirect participants that exceed certain thresholds to become direct participants in order to reduce systemic risk.

After consideration of the comments and further analysis, the Board continues to believe that for certain designated FMUs, based on the design of their settlement arrangements, material risks could arise from tiered

participation arrangements that are borne by the FMU or by its participants. For example, in an FMU in which a direct participant processes large transaction values on behalf of a large customer such as a large correspondent bank, the failure of the customer could jeopardize the direct participant's ability to meet its obligations to the FMU or to the other participants in the FMU. The failure to meet these obligations could result in liquidity dislocations that would pose significant liquidity risk to the FMU or to the other participants in the FMU. The Board acknowledges that certain designated FMUs with particular system designs may not face material risks arising from tiered participation arrangements, but these designated FMUs should present an analysis to that effect.

Tiered participation arrangements could also pose other risks to the designated FMU and its participants, including operational risk. For example, a designated FMU may want to understand how its direct participants manage any spikes or peaks in volume submitted to the designated FMU on behalf of indirect participants. Understanding the potential for spikes in volume will allow the designated FMU to prepare to have the scalable operational capacity necessary to process those volumes effectively, such that it is able to achieve its service-level objectives.

The Board believes that a designated FMU should seek to understand the risks associated with the relationships between direct participants and their customers in order to assess whether any material risk to the designated FMU or its other participants exists. If material risks exist, the designated FMU should mitigate or manage this risk. However, the Board does not expect a designated FMU to manage all risks that arise between a direct participant and its customers, but rather to manage only the material risks to the designated FMU itself or to its other participants as a result of their participation in the system. The Board is revising § 234.3(a)(19) to clarify that the designated FMU should assess the material risks arising from tiered participation arrangements that are borne by the designated FMU or by its other participants as a result of their participation in the system.

Duplicative monitoring. One commenter stated that a requirement for a designated FMU to monitor the risks posed by indirect participants would be costly and duplicative of monitoring activities of regulators and the direct participants in the designated FMU. After consideration of the comment, the Board continues to believe that monitoring by direct participants or by their supervisors may not fully and effectively address all risks that may arise from tiered participation arrangements. Direct participants would likely monitor risks posed to them by their customers but may not consider how their actions to mitigate or manage those risks could affect the FMU or its other participants. In addition, the supervisory focus for certain direct participants is typically different from that for designated FMUs, and their supervisory monitoring might not take into account the effects of tiered participation arrangements on the designated FMU or its other participants. Direct participants in a designated FMU may also be subject to varying degrees of supervision. Therefore, the onus should be on the designated FMU to understand the tiered participation arrangements in the system and the impact of these relationships on the designated FMU and its participants.

Requirements for an FMU with respect to tiered participation arrangements. One commenter stated that the proposed rule was ambiguous about what would actually be required of a designated FMU to comply with § 234.3(a)(19). The commenter stated that the Board should make clear that an FMU that does not bear any risk from its participants or their customers should not need to take any action to comply with the proposed rule. Another commenter stated that a designated FMU should be required to ensure that its direct participants have sufficient information to assess their relationships with their customers. The designated FMU should also ensure that its direct participants have sufficient information to evaluate and manage their risks with respect to participation in the designated FMU.

After consideration of the comments, the Board continues to believe that designated FMUs should manage material risks arising from tiered participation arrangements. The Board is adopting provisions in the final rule that clarify what would be expected from a designated FMU. The Board is including § 234.3(a)(19)(i) to clarify that the designated FMU should conduct an analysis to determine whether material risks arise from tiered participation arrangements. Depending on the nature of their payment, clearing, or settlement activities, designated FMUs' methodologies for conducting the analysis may differ. For example, some designated FMUs may choose to gather information about the volume and value of activity processed by direct participants on behalf of indirect participants in the designated FMU or other relevant information. Where such information would be useful, a designated FMU may want to consider defining reasonable thresholds and other factors for gathering the information in order to minimize burden.

The Board is including § 234.3(a)(19)(ii) to clarify that, where material risks from tiered participation arrangements are identified, the designated FMU must mitigate or manage such risks. The appropriate actions to mitigate or manage the material risks identified will depend on the circumstances of the designated FMU and the risks identified. For example, one commenter noted that it provides a set of best practices with respect to tiered participation arrangements to guide participants' understanding and facilitate the assessment of risks related to tiered participation. This revision to the rule is also intended to clarify that the designated FMU is required to take additional action only if material risks are identified pursuant to § 234.3(a)(19)(i).

The Board is including § 234.3(a)(19)(iii) to clarify that a designated FMU will be required to review and update its analysis of risks arising from tiered participation arrangements at the earlier of every two years or following material changes to the system design or operations or the environment in which the designated FMU operates if those changes could affect the analysis conducted as required in § 234.3(a)(19)(i). If a designated FMU's review of its analysis indicates that the designated FMU faces no material risks from tiered participation arrangements, then no further action would be required. This provision is intended to clarify, in response to concerns raised by one commenter, that a designated FMU will not be required to monitor constantly the risks posed by tiered participation arrangements. The review requirement is also intended to be responsive to another comment that the review frequency for the assessment of risks arising from tiered participation arrangements should be consistent with the review standards under proposed § 234.3(a)(3). The Board agrees and is also adopting a requirement for biennial review of the recovery and orderly wind-down plans in § 234.3(a)(3)(iii).

Definition of 'indirect participants'. Proposed § 234.3(a)(19) refers to firms that are not members of the designated FMU (indirect participants) that rely on the services provided by direct

participants to access the designated FMU's payment, clearing, or settlement facilities. One commenter stated that the Board should limit the application of the rule to firms that are known by the designated FMU, have an agreement binding them to the FMU's rules, and may have a direct connection to the FMU. The Board believes that material risks can originate from arrangements with a range of indirect participants having a range of relationships or arrangements with the FMU. If such arrangements may pose material risks, the designated FMU should seek to gather information from its direct participants on those arrangements and assess the risks from those arrangements. Therefore, the Board is retaining the concept of indirect participant as those firms that access the services of the designated FMU through a direct participant, whether or not they are bound by some part of the rules or have a direct connection to the designated FMU.[16] The Board wishes to clarify, however, that the designated FMU should focus its analysis on the direct customers of the direct participants and need not extend its analysis to other tiers of customers, such as the customers of the customers of the direct participants.

Thresholds for identifying indirect participants that could pose risk to the designated FMU. In the preamble to the proposed rule, the Board asked how, if at all, the Board should define the thresholds for identifying indirect participants responsible for a significant proportion of transactions processed by the designated FMU and for identifying indirect participants whose transaction volumes or values are large relative to the capacity of the direct participant through which the indirect participants access the designated FMU. One commenter stated that the Board should not be too prescriptive in defining these thresholds, because they may vary across individual designated FMUs. The Board is not defining specific thresholds for identifying indirect participants that may pose risk to the designated FMU.

Conflicts of interest and antitrust issues. One commenter stated that the proposed rule raises conflict-of-interest and antitrust issues. The commenter stated that the collection of data on indirect participation that the Board proposed in the NPRM would give the board of directors of the designated FMU a complete picture of each participant's relationships with its most important customers, which could create a conflict of interest if the designated FMU's board of directors is made up of representatives of the member banks. The commenter also stated that the proposed requirement appeared to require designated FMUs to encourage indirect participants that are large relative to their direct participants to move to a larger direct participant or become direct participants themselves, which could create antitrust issues if the designated FMU's actions to comply with the requirement appear to third parties as an effort by the designated FMU to favor its owner banks.

The Board believes that any conflicts of interest or antitrust issues that may arise from the requirements in proposed § 234.3(a)(19) can be avoided through the careful design of the information-gathering and risk-management processes developed by the designated FMU. First, the designated FMU's board of directors does not have to see a complete picture of each participant's relationships with its customers. The designated FMU can put controls in place that would minimize potential conflicts to ensure that information is shared in an appropriate manner that would allow the board of directors to carry out its responsibility for the comprehensive management of risks. Second, the rule does not require the designated FMU to encourage indirect participants that are large relative to their direct participants to move to a larger direct participant or become direct participants themselves. The designated FMU may choose other methods for mitigating or managing risks to the designated FMU from tiered participation arrangements. For example, if the designated FMU is concerned that a direct participant's exposures to its customers could cause it to default to the designated FMU, the designated FMU may require the direct participant to provide additional collateral to mitigate the relevant financial risks posed by its relationships with its customers. Therefore, the Board does not believe it is necessary to modify the rule to address these concerns.

N. Efficiency and Effectiveness

Proposed § 234.3(a)(21) required a designated FMU to be efficient and effective in meeting the requirements of its participants and the markets it serves. In the NPRM, the Board explained that efficiency generally encompasses what a designated FMU chooses to do, how it does it, and the resources required by the designated FMU to perform its functions. Effectiveness refers to whether the designated FMU is meeting its goals and objectives, which include the requirements of its participants and the markets it serves.

One commenter stated that the Board has not given sufficient weight to market judgments regarding an FMU's effectiveness and that an FMU that does not meet the requirements of its participants and the markets it serves or that does not meet its objectives efficiently will not survive in the market. The commenter suggested that the Board remove the requirement or redefine efficiency and effectiveness in terms of market judgments.

The Board continues to believe that a requirement for a designated FMU to be efficient and effective should be included in § 234.3(a) and that the terms efficiency and effectiveness should not be defined solely in terms of market judgments. The Board agrees with the comment that market forces may encourage an FMU to be efficient and effective, particularly in cases where it has a direct competitor. Many markets for payment, clearing and settlement services, however, are monopolies or oligopolies. Furthermore, it may be difficult for market participants to determine if a particular designated FMU is efficient and effective because of imperfect information about the designated FMU. Therefore, market judgments alone may be insufficient to encourage the designated FMU to operate efficiently and effectively. The Board does not believe that changes to the proposed requirement are necessary and is adopting the text of the rule as proposed.

O. Disclosure of Rules, Procedures and Market Data

Proposed § 234.3(a)(23) required the designated FMU to disclose relevant information about its operations and risk management to its participants and to the public. Proposed § 234.3(a)(23)(ii) required a designated FMU to disclose publicly all rules and key procedures, including key aspects of its default rules and procedures. Proposed § 234.3(a)(23)(iii) required a designated FMU to provide sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the designated FMU. The Board also asked a question in the NPRM about whether a designated FMU should disclose information about fees and discount policies to the public.

[16] For example, some firms may submit transactions or instructions to an FMU directly under the account of a direct participant. In this case, the firm may be bound by the FMU's rules, but the direct participant would be accountable for the firm's performance on its obligations. In other FMUs, indirect participants are not bound by the rules of the FMU and do not have a direct connection to the FMU.

The Board received two comment letters that addressed this provision of the proposed rule. In response to the proposed rule, one commenter stated that certain procedures should not be publicly disclosed because they would help unauthorized persons gain access to the system. The Board agrees that certain procedures should not be disclosed to the public in detail if such detail would create vulnerabilities for the designated FMU or undermine its safety and soundness. Although the Board expects disclosures to be robust, it does not expect a designated FMU to disclose to the public sensitive information, such as its detailed business continuity plan. In such cases, it may be sufficient to disclose to the public only the key highlights of the plan.

In response to the Board's question about public disclosure of information on fees and discount policies, one commenter stated that high-level information about pricing principles and rationale for the designated FMU's pricing principles should be disclosed, while another commenter opposed such a requirement. After consideration of the comments, the Board has determined not to include a requirement for a designated FMU to disclose information about fees and discount policies to the public. Although the Board believes that public disclosure of, at a minimum, high-level information about the designated FMU's pricing principles and rationale for those principles is a best practice for transparency purposes, the Board believes that a requirement to disclose specific details about fees and discounts to the public is not relevant to the objectives of Title VIII to promote robust risk management, promote safety and soundness, reduce systemic risks, and support the stability of the broader financial system. For these reasons, the Board is not introducing this requirement in § 234.3(a)(23).

P. Compliance Dates

In the NPRM, the Board proposed that the revisions to § 234.3(a) become effective 30 days from the date final rules are published in the **Federal Register**. The Board proposed that designated FMUs be expected to comply with the requirements in the final rule 30 days from the date final rules are published in the **Federal Register**, with the exception of establishing plans for recovery and orderly wind-down, set forth in proposed § 234.3(a)(3)(iii); addressing uncovered credit losses, set forth in proposed § 234.3(a)(4)(vi); addressing liquidity shortfalls, set forth in proposed § 234.3(a)(7)(viii); maintaining sufficient liquid net assets funded by equity and a viable capital plan, set forth in proposed § 234.3(a)(15)(i) and (ii); managing risks arising in tiered participation arrangements, set forth in proposed § 234.3(a)(19); and providing comprehensive public disclosure, set forth in proposed § 234.3(a)(23)(iv). The Board proposed that compliance with these requirements be required within six months of publication of the final rules.

The Board received three comment letters that addressed the extension to the compliance date for certain requirements. Two commenters agreed with the six-month extension for these requirements. The third commenter stated that a minimum of 18 months would be required to comply with requirements in the proposed rule, especially if the requirements set forth in proposed § 234.3(a)(19) were adopted as proposed. One of the commenters also stated that the compliance date for proposed § 234.3(a)(20) on links to other FMUs should also be extended for at least six months because implementation of that rule will require extensive cooperation and coordination between FMUs.

The Board has adopted the effective date of December 31, 2014 for the final rule. Designated FMUs are also expected to comply with the requirements in the final rule on December 31, 2014, with the exception of establishing plans for recovery and orderly wind-down, set forth in § 234.3(a)(3)(iii); addressing uncovered credit losses, set forth in § 234.3(a)(4)(vi); addressing liquidity shortfalls, set forth in § 234.3(a)(7)(viii); maintaining sufficient liquid net assets funded by equity and a viable capital plan, set forth in § 234.3(a)(15)(i) and (ii); managing risks arising in tiered participation arrangements, set forth in § 234.3(a)(19); and providing comprehensive public disclosure, set forth in § 234.3(a)(23)(iv). Compliance with these provisions will be required on or before December 31, 2015. Designated FMUs, however, are encouraged to comply with the provisions as soon as possible.

The Board is making these changes to the effective date and the compliance dates after consideration of the public comments as well as internal analysis. The Board decided to extend the compliance date for the new and heightened requirements in order to allow sufficient time to the designated FMUs to complete their processes and procedures for changes to their rulebooks and to minimize burden on the designated FMUs and the markets they serve. Also, the Board has decided not to include § 234.3(a)(20) in the list of provisions for which there is an extension to the compliance period because this provision does not apply to the designated FMUs that will be subject to the revisions to § 234.3(a) on the effective date of the final rule.

III. Administrative Law Matters

A. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (''RFA'') generally requires an agency to perform an initial and a final regulatory flexibility analysis on the impact a rule is expected to have on small entities. However, under section 605(b) of the RFA, the regulatory flexibility analysis otherwise required under section 604 of the FRA is not required if an agency certifies, along with a statement providing the factual basis for such certification, that the rule will not have a significant economic impact on a substantial number of small entities. Based on current information, the Board believes that the payment systems that have been designated by the Council are not ''small entities'' for purposes of the RFA, and so, the final rule likely would not have a significant economic impact on a substantial number of small entities. However, the Board has prepared the following final regulatory flexibility analysis pursuant to section 604 of the RFA.

1. *Statement of the need for, and objectives of, the final rule.* In accordance with Sections 805(a) of the Dodd-Frank Act, the Board is adopting the final rule. The final rule amends the risk-management standards for systemically important FMUs in consideration of the new international standards. The reasons and justification for the final rule are described above in the Supplementary Information.

2. *Summary of the significant issues raised by public comment on the Board's initial analysis, the Board's assessment of such issues, and a statement of any changes made as a result of such comments.* The Board did not receive any public comments regarding its initial regulatory flexibility analysis. In addition, the Board did not receive any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule.

3. *Small entities affected by the final rule.* The final rule would affect FMUs that the Council designates as systemically important to the U.S. financial system for which the Board is the Supervisory Agency. Pursuant to regulations issued by the Small Business Administration (the ''SBA'') (13 CFR 121.201), a ''small entity''

includes an establishment engaged in (i) providing financial transaction processing, reserve and liquidity services, or clearinghouse services with an average annual revenue of $38.5 million or less (NAICS code 522320); (ii) securities and/or commodity exchange activities with an average annual revenue of $38.5 million or less (NAICS code 523210); and (iii) trust, fiduciary, and/or custody activities with an average annual revenue of $38.5 million or less (NAICS code 523991). As noted in the NPRM, based on current information, the Board does not believe that any of the FMUs that have been designated by the Council, and in particular the two designated FMUs for which the Board is the Supervisory Agency under Title VIII of the Dodd-Frank Act, would be ''small entities'' pursuant to the SBA regulation. In addition, the Board is not, and is not likely to become, the Supervisory Agency pursuant to section 803(8) of the Dodd-Frank Act for any designated FMU that operates as a central securities depository or central counterparty.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule imposes certain reporting and recordkeeping requirements for a designated FMU. (See, for example, § 234.3(a)(3) (requiring policies, procedures, and systems that enable the designated FMU to identify, measure, monitor, and manage the risks that arise in or are borne by the designated FMU), § 234.3(a)(13) (requiring effective and clearly defined rules and procedures to manage a participant default), and § 234.3(a)(23) (requiring a comprehensive public disclosure of its legal, governance, risk management, and operating framework).) The final rule also contains a number of compliance requirements, including the standards that the designated FMU must meet, such as (i) having a well-founded, clear, transparent and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions (§ 234.3(a)(1)), (ii) effectively measuring, monitoring, and managing its credit exposures under a wide range of significantly different stress scenarios (§ 234.3(a)(4)), (iii) effectively measuring, monitoring, and managing the liquidity risk that arises or is borne by the designated FMU (§ 234.3(a)(7)), and (iv) managing its operational risks by establishing a robust operational risk-management framework (§ 234.3(a)(17)). Designated FMUs for which the Board is the Supervisory Agency are generally already expected to meet most of these standards, or are at least familiar with these or similar standards, so these requirements would not likely impose material additional costs on those designated FMUs.

The final rule, however, also includes a number of new or heightened standards that may impose new or additional compliance costs on the designated FMUs for which the Board is the Supervisory Agency. For example, as explained above in the Supplementary Information, the final rule includes requirements for integrated plans for the designated FMU's recovery and orderly wind-down (§ 234.3(a)(3)(iii)); policies and procedures that explicitly address uncovered credit losses (§ 234.3(a)(4)(vi)); policies and procedures that explicitly address liquidity shortfalls (§ 234.3(a)(7)(viii)); maintaining sufficient liquid net assets funded by equity sufficient to ensure a recovery or orderly wind-down of critical operations and services and a viable plan for raising additional equity should the designated FMU's equity fall below the amount required for a recovery or orderly wind-down (§ 234.3(a)(15)(i) and (ii)); managing risks arising in tiered participation arrangements (§ 234.3(a)(19)); and providing comprehensive public disclosure (§ 234.3(a)(23)(iv)).

All of these requirements would likely require professional skills in the legal, risk management, finance, payments operations, and accounting areas.

5. *Significant alternatives to the revisions.* Section 805(a) of the Dodd-Frank Act requires the Board to prescribe risk-management standards governing the operations related to payment, clearing, and settlement activities of designated FMUs, so other administrative methods for accomplishing the goals of the Act were not considered. In prescribing the risk-management standards, Section 805(a) of the Act also requires the Board to take into consideration relevant international standards, among other things. The PFMI is now widely recognized as the most relevant set of international risk-management standards for payment, clearing, and settlement systems. Consistent with the PFMI, the proposed rule generally employed a flexible, principles-based approach to permit a designated FMU to employ a cost-effective method for compliance. In consultation with the Council and the other Supervisory Agencies, the Board has included additional detail in developing the final rule where necessary or appropriate, such as specific testing frequencies or other requirements to provide the designated FMUs with sufficient guidance for compliance with the standard. As noted above, the Board has revised the level of detail provided in the risk-management standards in the final rule, as appropriate, in response to the public comments. In addition, after consideration of the public comments as well as additional Board analysis, the Board has delayed the compliance date for several of the new or heightened requirements in order to allow designated FMUs for which the Board is the Supervisory Agency sufficient time to revise their rules and associated processes and procedures and to minimize burden on the designated FMUs and the markets they serve. As noted above, the Board does not believe that the alternative adopted in the final rule will have a significant economic impact on small entities.

B. Competitive Impact Analysis

As a matter of policy, the Board subjects all operational and legal changes that could have a substantial effect on payment system participants to a competitive impact analysis, even if competitive effects are not apparent on the face of the proposal.[17] Pursuant to this policy, the Board assesses whether proposed changes ''would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services'' and whether any such adverse effect ''was due to legal differences or due to a dominant market position deriving from such legal differences.'' If, as a result of this analysis, the Board identifies an adverse effect on the ability to compete, the Board then assesses whether the associated benefits—such as improvements to payment system efficiency or integrity—can be achieved while minimizing the adverse effect on competition.

This final rule promulgates revised Regulation HH risk-management standards, which are based on the PFMI, for certain designated FMUs as required by Title VIII of the Dodd-Frank Act. In a separate, related **Federal Register** notice, the Board finalized concurrently revisions to part I of its PSR policy, which applies to the Federal Reserve Bank-operated Fedwire Services, based on the PFMI. At least one currently designated FMU that is subject to Regulation HH (The Clearing House Payments Company, L.L.C., with respect to its operation of the Clearing House Interbank Payments System (CHIPS)) competes with the Fedwire Funds

[17] See ''The Federal Reserve in the Payments System,'' Fed. Res. Reg. Svc. §§ 9–1550, 9–1558 (Apr. 2009).

Service. One commenter expressed concern that differences in language between the risk-management standards in Regulation HH and in part I of the PSR policy may result in two different sets of risk-management standards for FMUs. The commenter also stated that the Board should ensure that the requirements in § 234.3(a)(15) with respect to general business risk for designated FMUs should also be imposed on the equivalent Reserve Bank service.

The final revisions to the risk-management and transparency expectations in part I of the PSR policy are consistent with those in final Regulation HH. As discussed above, a different level of detail is required for Regulation HH as compared to part I of the PSR policy. Regulation HH is an enforceable rule applicable to designated FMUs other than those supervised by the CFTC or SEC, so additional details from the key considerations and explanatory notes of the PFMI were incorporated in the rule text to provide greater clarity on the Board's expectations. The PSR policy, on the other hand, is a policy statement that provides guidance with respect to the Board's exercise of its other supervisory or regulatory authority over other financial market infrastructures (including those operated by the Federal Reserve Banks) or their participants, its participation in cooperative oversight arrangements for financial market infrastructures, or the provision of intraday credit to eligible Federal Reserve account holders. Incorporating the headline standards from the PFMI is consistent with the purpose of the document and the Board's long-standing principles-based approach to its PSR policy. The Board has stated that it will be guided by the key considerations and the explanatory text of the PFMI in its application of the PSR policy. The Board does not intend for differences in language in the two documents to lead to inconsistent requirements for Reserve Bank-operated FMUs and their private sector competitors.

The Board recognizes the critical role that the Fedwire Services play in the financial system and is committed to applying risk-management standards to the Reserve Banks' Fedwire Funds Service that are at least as stringent as the applicable Regulation HH standards applied to designated FMUs that provide similar services. The final revisions to part I of the PSR policy provide that the treatment of Reserve Bank systems will be consistent with that of private-sector systems in order to avoid any material adverse effect on the ability of other service providers to compete effectively with the Reserve Banks.

There are, however, several risk-management standards for which flexibility in implementation will be necessary for the Fedwire Services given the Federal Reserve's legal framework and structure and its roles as monetary authority and liquidity provider.[18] The Board does not expect that the difference in approach to implementing these standards for the Fedwire Funds Service as compared to the requirements for its private-sector competitor would create a significant difference in operating costs for the two entities, with the possible exception of the expectation to hold unencumbered liquid financial assets and equity under § 234.3(a)(15)(i). In order to foster competition with private-sector systems, the Board will incorporate the cost of this requirement into the pricing of the Fedwire Funds Service. Although the Fedwire Funds Service does not face the risk that a business shock would cause the service to wind down in a disorderly manner and disrupt the stability of the financial system, in order to foster competition with private-sector systems, the Board will require the Fedwire Funds Service to impute the cost of maintaining liquid assets and equity to cover general business losses, similar to the requirement for designated FMUs in § 234.3(a)(15)(i). The Board will also monitor the implementation of the final regulation and policy for issues of consistency and competitive equity between private-sector systems and the Fedwire Funds Service. Therefore, the Board does not believe the final rule promulgating risk-management standards for designated FMUs under Title VIII will have any direct and material adverse effect on the ability of other service providers to compete with the Reserve Banks.

C. Paperwork Reduction Act Analysis

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. As noted in the proposal, for purposes of calculating burden under the Paperwork Reduction Act, a ''collection of information'' involves 10 or more respondents. Any collection of information addressed to all or a substantial majority of an industry is presumed to involve 10 or more respondents (5 CFR 1320.3(c) introductory text and (c)(4)(ii)). The Board estimates there are fewer than 10 respondents, and these respondents do not represent all or a substantial majority of the participants in payment, clearing, and settlement systems. Therefore, no collections of information pursuant to the Paperwork Reduction Act are contained in the final rule. The Board did not receive any comments on this analysis.

[18] These standards include principle 2 on governance, principle 3 on the framework for the comprehensive management of risks, principle 4 on credit risk, principle 5 on collateral, principle 7 on liquidity risk, principle 13 on participant-default rules and procedures, principle 15 on general business risk, and principle 18 on access and participation requirements.

Text of Final Rule

List of Subjects in 12 CFR 234

Banks, Banking, Credit, Electronic funds transfers, Financial market utilities, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 234 as set forth below.

PART 234—DESIGNATED FINANCIAL MARKET UTILITIES (REGULATION HH)

■ 1–2. The authority citation for part 234 continues to read as follows:

Authority: 12 U.S.C. 5461 *et seq.*

■ 3. Revise § 234.2 to read as follows:

§ 234.2 Definitions.

(a) *Backtest* means the *ex post* comparison of realized outcomes with margin model forecasts to analyze and monitor model performance and overall margin coverage.

(b) *Central counterparty* means an entity that interposes itself between counterparties to contracts traded in one or more financial markets, becoming the buyer to every seller and the seller to every buyer.

(c) *Central securities depository* means an entity that provides securities accounts and central safekeeping services.

(d) *Designated financial market utility* means a financial market utility that is currently designated by the Financial Stability Oversight Council under section 804 of the Dodd-Frank Act (12 U.S.C. 5463).

(e) *Financial market utility* has the same meaning as the term is defined in section 803(6) of the Dodd-Frank Act (12 U.S.C. 5462(6)).

(f) *Link* means, for purposes of § 234.3(a)(20), a set of contractual and operational arrangements between two or more central counterparties, central securities depositories, or securities settlement systems, or between one or more of these financial market utilities

and one or more trade repositories, that connect them directly or indirectly, such as for the purposes of participating in settlement, cross margining, or expanding their services to additional instruments and participants.

(g) *Orderly wind-down* means the actions of a designated financial market utility to effect the permanent cessation, sale, or transfer of one or more of its critical operations or services in a manner that would not increase the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the U.S. financial system.

(h) *Recovery* means, for purposes of § 234.3(a)(3) and (15), the actions of a designated financial market utility, consistent with its rules, procedures, and other *ex ante* contractual arrangements, to address any uncovered loss, liquidity shortfall, or capital inadequacy, whether arising from participant default or other causes (such as business, operational, or other structural weaknesses), including actions to replenish any depleted prefunded financial resources and liquidity arrangements, as necessary to maintain the designated financial market utility's viability as a going concern and to continue its provision of critical services.

(i) *Securities settlement system* means an entity that enables securities to be transferred and settled by book entry and allows transfers of securities free of or against payment.

(j) *Stress test* means the estimation of credit or liquidity exposures that would result from the realization of potential stress scenarios, such as extreme price changes, multiple defaults, and changes in other valuation inputs and assumptions.

(k) *Supervisory Agency* has the same meaning as the term is defined in section 803(8) of the Dodd-Frank Act (12 U.S.C. 5462(8)).

(l) *Trade repository* means an entity that maintains a centralized electronic record of transaction data, such as a swap data repository or a security-based swap data repository.

■ 4. In § 234.3, revise paragraph (a) to read as follows:

§ 234.3 Standards for designated financial market utilities.

(a) A designated financial market utility must implement rules, procedures, or operations designed to ensure that it meets or exceeds the following risk-management standards with respect to its payment, clearing, and settlement activities.

(1) *Legal basis.* The designated financial market utility has a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities in all relevant jurisdictions.

(2) *Governance.* The designated financial market utility has governance arrangements that—

(i) Are clear, transparent, and documented;

(ii) Promote the safety and efficiency of the designated financial market utility;

(iii) Support the stability of the broader financial system, other relevant public interest considerations such as fostering fair and efficient markets, and the legitimate interests of relevant stakeholders, including the designated financial market utility's owners, participants, and participants' customers; and

(iv) Are designed to ensure—

(A) Lines of responsibility and accountability are clear and direct;

(B) The roles and responsibilities of the board of directors and senior management are clearly specified;

(C) The board of directors consists of suitable individuals having appropriate skills to fulfill its multiple roles;

(D) The board of directors includes a majority of individuals who are not executives, officers, or employees of the designated financial market utility or an affiliate of the designated financial market utility;

(E) The board of directors establishes policies and procedures to identify, address, and manage potential conflicts of interest of board members and to review its performance and the performance of individual board members on a regular basis;

(F) The board of directors establishes a clear, documented risk-management framework that includes the designated financial market utility's risk-tolerance policy, assigns responsibilities and accountability for risk decisions, and addresses decisionmaking in crises and emergencies;

(G) Senior management has the appropriate experience, skills, and integrity necessary to discharge operational and risk-management responsibilities;

(H) The risk-management function has sufficient authority, resources, and independence from other operations of the designated financial market utility, and has a direct reporting line to and is overseen by a committee of the board of directors;

(I) The internal audit function has sufficient authority, resources, and independence from management, and has a direct reporting line to and is overseen by a committee of the board of directors; and

(J) Major decisions of the board of directors are clearly disclosed to relevant stakeholders, including the designated financial market utility's owners, participants, and participants' customers, and, where there is a broad market impact, the public.

(3) *Framework for the comprehensive management of risks.* The designated financial market utility has a sound risk-management framework for comprehensively managing legal, credit, liquidity, operational, general business, custody, investment, and other risks that arise in or are borne by the designated financial market utility. This framework is subject to periodic review and includes—

(i) Risk-management policies, procedures, and systems that enable the designated financial market utility to identify, measure, monitor, and manage the risks that arise in or are borne by the designated financial market utility, including those posed by other entities as a result of interdependencies;

(ii) Risk-management policies, procedures, and systems that enable the designated financial market utility to identify, measure, monitor, and manage the material risks that it poses to other entities, such as other financial market utilities, settlement banks, liquidity providers, or service providers, as a result of interdependencies; and

(iii) Integrated plans for the designated financial market utility's recovery and orderly wind-down that—

(A) Identify the designated financial market utility's critical operations and services related to payment, clearing, and settlement;

(B) Identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern, including uncovered credit losses (as described in paragraph (a)(4)(vi)(A) of this section), uncovered liquidity shortfalls (as described in paragraph (a)(7)(viii)(A) of this section), and general business losses (as described in paragraph (a)(15) of this section);

(C) Identify criteria that could trigger the implementation of the recovery or orderly wind-down plan;

(D) Include rules, procedures, policies, and any other tools the designated financial market utility would use in a recovery or orderly wind-down to address the scenarios identified under paragraph (a)(3)(iii)(B) of this section;

(E) Include procedures to ensure timely implementation of the recovery and orderly wind-down plans in the

scenarios identified under paragraph (a)(3)(iii)(B) of this section;

(F) Include procedures for informing the Board, as soon as practicable, if the designated financial market utility is considering initiating recovery or orderly wind-down; and

(G) Are reviewed the earlier of every two years or following changes to the system or the environment in which the designated financial market utility operates that would significantly affect the viability or execution of the plans.

(4) *Credit risk.* The designated financial market utility effectively measures, monitors, and manages its credit exposures to participants and those arising from its payment, clearing, and settlement processes. In this regard, the designated financial market utility maintains sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. In addition, the designated financial market utility—

(i) If it operates as a central counterparty, maintains additional prefunded financial resources that are sufficient to cover its credit exposure under a wide range of significantly different stress scenarios that includes the default of the participant and its affiliates that would potentially cause the largest aggregate credit exposure to the designated financial market utility in extreme but plausible market conditions;

(ii) If it operates as a central counterparty, may be directed by the Board to maintain additional prefunded financial resources that are sufficient to cover its credit exposure under a wide range of significantly different stress scenarios that includes the default of the two participants and their affiliates that would potentially cause the largest aggregate credit exposure to the designated financial market utility in extreme but plausible market conditions. The Board may consider such a direction if the central counterparty—

(A) Is involved in activities with a more-complex risk profile, such as clearing financial instruments characterized by discrete jump-to-default price changes or that are highly correlated with potential participant defaults, or

(B) Has been determined by another jurisdiction to be systemically important in that jurisdiction;

(iii) If it operates as a central counterparty, determines the amount and regularly tests the sufficiency of the total financial resources available to meet the requirements of this paragraph by—

(A) On a daily basis, conducting a stress test of its total financial resources using standard and predetermined stress scenarios, parameters, and assumptions;

(B) On at least a monthly basis, and more frequently when the products cleared or markets served experience high volatility or become less liquid, or when the size or concentration of positions held by the central counterparty's participants increases significantly, conducting a comprehensive and thorough analysis of the existing stress scenarios, models, and underlying parameters and assumptions such that the designated financial market utility meets its required level of default protection in light of current and evolving market conditions; and

(C) Having clear procedures to report the results of its stress tests to decisionmakers at the central counterparty and using these results to evaluate the adequacy of and adjust its total financial resources;

(iv) If it operates as a central counterparty, excludes assessments for additional default or guaranty fund contributions (that is, default or guaranty fund contributions that are not prefunded) in its calculation of financial resources available to meet the total financial resource requirement under this paragraph;

(v) At least annually, provides for a validation of the designated financial market utility's risk-management models used to determine the sufficiency of its total financial resources that—

(A) Includes the designated financial market utility's models used to comply with the collateral provisions under paragraph (a)(5) of this section and models used to determine initial margin under paragraph (a)(6) of this section; and

(B) Is performed by a qualified person who does not perform functions associated with the model (except as part of the annual model validation), does not report to such a person, and does not have a financial interest in whether the model is determined to be valid; and

(vi) Establishes rules and procedures that explicitly—

(A) Address allocation of credit losses the designated financial market utility may face if its collateral and other financial resources are insufficient to cover fully its credit exposures, including the repayment of any funds a designated financial market utility may borrow from liquidity providers; and

(B) Describe the designated financial market utility's process to replenish any financial resources that the designated financial market utility may employ during a stress event, including a participant default.

(5) *Collateral.* If it requires collateral to manage its or its participants' credit exposure, the designated financial market utility accepts collateral with low credit, liquidity, and market risks and sets and enforces conservative haircuts and concentration limits, in order to ensure the value of the collateral in the event of liquidation and that the collateral can be used in a timely manner. In this regard, the designated financial market utility—

(i) Establishes prudent valuation practices and develops haircuts that are tested regularly and take into account stressed market conditions;

(ii) Establishes haircuts that are calibrated to include relevant periods of stressed market conditions to reduce the need for procyclical adjustments;

(iii) Provides for annual validation of its haircut procedures, as part of its risk-management model validation under paragraph (a)(4)(v) of this section;

(iv) Avoids concentrated holdings of any particular type of asset where the concentration could significantly impair the ability to liquidate such assets quickly without significant adverse price effects;

(v) Uses a collateral management system that is well-designed and operationally flexible such that it, among other things,—

(A) Accommodates changes in the ongoing monitoring and management of collateral; and

(B) Allows for the timely valuation of collateral and execution of any collateral or margin calls.

(6) *Margin.* If it operates as a central counterparty, the designated financial market utility covers its credit exposures to its participants for all products by establishing a risk-based margin system that—

(i) Is conceptually and methodologically sound for the risks and particular attributes of each product, portfolio, and markets it serves, as demonstrated by documented and empirical evidence supporting design choices, methods used, variables selected, theoretical bases, key assumptions, and limitations;

(ii) Establishes margin levels commensurate with the risks and particular attributes of each product, portfolio, and market it serves;

(iii) Has a reliable source of timely price data;

(iv) Has procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable;

(v) Marks participant positions to market and collects variation margin at least daily and has the operational capacity to make intraday margin calls and payments, both scheduled and unscheduled, to participants;

(vi) Generates initial margin requirements sufficient to cover potential changes in the value of each participant's position during the interval between the last margin collection and the closeout of positions following a participant default by—

(A) Ensuring that initial margin meets an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure; and

(B) Using a conservative estimate of the time horizons for the effective hedging or closeout of the particular types of products cleared, including in stressed market conditions; and

(vii) Is monitored on an ongoing basis and regularly reviewed, tested, and verified through—

(A) Daily backtests;

(B) Monthly sensitivity analyses, performed more frequently during stressed market conditions or significant fluctuations in participant positions, with this analysis taking into account a wide range of parameters and assumptions that reflect possible market conditions that captures a variety of historical and hypothetical conditions, including the most volatile periods that have been experienced by the markets the designated financial market utility serves; and

(C) Annual model validations of the designated financial market utility's margin models and related parameters and assumptions, as part of its risk-management model validation under paragraph (a)(4)(v) of this section.

(7) *Liquidity risk.* The designated financial market utility effectively measures, monitors, and manages the liquidity risk that arises in or is borne by the designated financial market utility. In this regard, the designated financial market utility—

(i) Has effective operational and analytical tools to identify, measure, and monitor its settlement and funding flows on an ongoing and timely basis, including its use of intraday liquidity;

(ii) Maintains sufficient liquid resources in all relevant currencies to effect same-day and, where applicable, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of significantly different potential stress scenarios that includes the default of the participant and its affiliates that would generate the largest aggregate liquidity obligation for the designated financial market utility in extreme but plausible market conditions;

(iii) Holds, for purposes of meeting the minimum liquid resource requirement under paragraph (a)(7)(ii) of this section,—

(A) cash in each relevant currency at the central bank of issue or creditworthy commercial banks;

(B) assets that are readily available and convertible into cash, through committed arrangements without material adverse change conditions, such as collateralized lines of credit, foreign exchange swaps, and repurchase agreements; or

(C) subject to the determination of the Board, highly marketable collateral and investments that are readily available and convertible into cash with prearranged and highly reliable funding arrangements, even in extreme but plausible market conditions;

(iv) Evaluates and confirms, at least annually, whether each provider of the arrangements as described in paragraphs (a)(7)(iii)(B) and (C) of this section has sufficient information to understand and manage that provider's associated liquidity risks, and whether the provider has the capacity to perform;

(v) Maintains and tests its procedures and operational capacity for accessing each type of liquid resource required under this paragraph at least annually;

(vi) Determines the amount and regularly tests the sufficiency of the liquid resources necessary to meet the minimum liquid resource requirement under this paragraph by—

(A) On a daily basis, conducting a stress test of its liquid resources using standard and predetermined stress scenarios, parameters, and assumptions;

(B) On at least a monthly basis, and more frequently when products cleared or markets served experience high volatility or become less liquid, or when the size or concentration of positions held by the designated financial market utility's participants increases significantly, conducting a comprehensive and thorough analysis of the existing stress scenarios, models, and underlying parameters and assumptions such that the designated financial market utility meets its identified liquidity needs and resources in light of current and evolving market conditions; and

(C) Having clear procedures to report the results of its stress tests to decisionmakers at the designated financial market utility and using these results to evaluate the adequacy of and make adjustments to its liquidity risk-management framework;

(vii) At least annually, provides for a validation of its liquidity risk-management model by a qualified person who does not perform functions associated with the model (except as part of the annual model validation), does not report to such a person, and does not have a financial interest in whether the model is determined to be valid; and

(viii) Establishes rules and procedures that explicitly—

(A) Address potential liquidity shortfalls that would not be covered by the designated financial market utility's liquid resources and avoid unwinding, revoking, or delaying the same-day settlement of payment obligations; and

(B) Describe the designated financial market utility's process to replenish any liquid resources that it may employ during a stress event, including a participant default.

(8) *Settlement finality.* The designated financial market utility provides clear and certain final settlement intraday or in real time as appropriate, and at a minimum, by the end of the value date. The designated financial market utility clearly defines the point at which settlement is final and the point after which unsettled payments, transfer instructions, or other settlement instructions may not be revoked by a participant.

(9) *Money settlements.* The designated financial market utility conducts its money settlements in central bank money where practical and available. If central bank money is not used, the designated financial market utility minimizes and strictly controls the credit and liquidity risks arising from conducting its money settlements in commercial bank money, including settlement on its own books. If it conducts its money settlements at a commercial bank, the designated financial market utility—

(i) Establishes and monitors adherence to criteria based on high standards for its settlement banks that take account of, among other things, their applicable regulatory and supervisory frameworks, creditworthiness, capitalization, access to liquidity, and operational reliability;

(ii) Monitors and manages the concentration of credit and liquidity exposures to its commercial settlement banks; and

(iii) Ensures that its legal agreements with its settlement banks state clearly—

(A) When transfers on the books of individual settlement banks are expected to occur;

(B) That transfers are final when funds are credited to the recipient's account; and

(C) That the funds credited to the recipient are available immediately for retransfer or withdrawal.

(10) *Physical deliveries.* A designated financial market utility that operates as a central counterparty, securities settlement system, or central securities depository clearly states its obligations with respect to the delivery of physical instruments or commodities and identifies, monitors, and manages the risks associated with such physical deliveries.

(11) *Central securities depositories.* A designated financial market utility that operates as a central securities depository has appropriate rules and procedures to help ensure the integrity of securities issues and minimizes and manages the risks associated with the safekeeping and transfer of securities. In this regard, the designated financial market utility maintains securities in an immobilized or dematerialized form for their transfer by book entry.

(12) *Exchange-of-value settlement systems.* If it settles transactions that involve the settlement of two linked obligations, such as a transfer of securities against payment or the exchange of one currency for another, the designated financial market utility eliminates principal risk by conditioning the final settlement of one obligation upon the final settlement of the other.

(13) *Participant-default rules and procedures.* The designated financial market utility has effective and clearly defined rules and procedures to manage a participant default that are designed to ensure that the designated financial market utility can take timely action to contain losses and liquidity pressures so that it can continue to meet its obligations. In this regard, the designated financial market utility tests and reviews its default procedures, including any closeout procedures, at least annually or following material changes to these rules and procedures.

(14) *Segregation and portability.* A designated financial market utility that operates as a central counterparty has rules and procedures that enable the segregation and portability of positions of a participant's customers and the collateral provided to the designated financial market utility with respect to those positions.

(15) *General business risk.* The designated financial market utility identifies, monitors, and manages its general business risk, which is the risk of losses that may arise from its administration and operation as a business enterprise (including losses from execution of business strategy, negative cash flows, or unexpected and excessively large operating expenses) that are neither related to participant default nor separately covered by financial resources maintained for credit or liquidity risk. In this regard, in addition to holding financial resources required to manage credit risk (paragraph (a)(4) of this section) and liquidity risk (paragraph (a)(7) of this section), the designated financial market utility—

(i) Maintains liquid net assets funded by equity that are at all times sufficient to ensure a recovery or orderly wind-down of critical operations and services such that it—

(A) Holds unencumbered liquid financial assets, such as cash or highly liquid securities, that are sufficient to cover the greater of—

(*1*) The cost to implement the plans to address general business losses as required under paragraph (a)(3)(iii) of this section and

(*2*) Six months of current operating expenses or as otherwise determined by the Board; and

(B) Holds equity, such as common stock, disclosed reserves, and other retained earnings, that is at all times greater than or equal to the amount of unencumbered liquid financial assets that are required to be held under paragraph (a)(15)(i)(A) of this section; and

(ii) Maintains a viable plan, approved by the board of directors, for raising additional equity should the designated financial market utility's equity fall below the amount required under paragraph (a)(15)(i) of this section, and updates the plan the earlier of every two years or following changes to the designated financial market utility or the environment in which it operates that would significantly affect the viability or execution of the plan.

(16) *Custody and investment risks.* The designated financial market utility—

(i) Safeguards its own and its participants' assets and minimizes the risk of loss on and delay in access to these assets by—

(A) Holding its own and its participants' assets at supervised and regulated entities that have accounting practices, safekeeping procedures, and internal controls that fully protect these assets; and

(B) Evaluating its exposures to its custodian banks, taking into account the full scope of its relationships with each; and

(ii) Invests its own and its participants' assets—

(A) In instruments with minimal credit, market, and liquidity risks, such as investments that are secured by, or are claims on, high-quality obligors and investments that allow for timely liquidation with little, if any, adverse price effect; and

(B) Using an investment strategy that is consistent with its overall risk-management strategy and fully disclosed to its participants.

(17) *Operational risk.* The designated financial market utility manages its operational risks by establishing a robust operational risk-management framework that is approved by the board of directors. In this regard, the designated financial market utility—

(i) Identifies the plausible sources of operational risk, both internal and external, and mitigates their impact through the use of appropriate systems, policies, procedures, and controls that are reviewed, audited, and tested periodically and after major changes;

(ii) Identifies, monitors, and manages the risks its operations might pose to other financial market utilities and trade repositories, if any;

(iii) Has policies and systems that are designed to achieve clearly defined objectives to ensure a high degree of security and operational reliability;

(iv) Has systems that have adequate, scalable capacity to handle increasing stress volumes and achieve the designated financial market utility's service-level objectives;

(v) Has comprehensive physical, information, and cyber security policies, procedures, and controls that address potential and evolving vulnerabilities and threats;

(vi) Has business continuity management that provides for rapid recovery and timely resumption of critical operations and fulfillment of its obligations, including in the event of a wide-scale disruption or a major disruption; and

(vii) Has a business continuity plan that—

(A) Incorporates the use of a secondary site that is located at a sufficient geographical distance from the primary site to have a distinct risk profile;

(B) Is designed to enable critical systems, including information technology systems, to recover and resume operations no later than two hours following disruptive events;

(C) Is designed to enable it to complete settlement by the end of the day of the disruption, even in case of extreme circumstances; and

(D) Is tested at least annually.

(18) *Access and participation requirements.* The designated financial market utility has objective, risk-based, and publicly disclosed criteria for participation, which permit fair and

open access. The designated financial market utility—

(i) Monitors compliance with its participation requirements on an ongoing basis and has the authority to impose more-stringent restrictions or other risk controls on a participant in situations where the designated financial market utility determines the participant poses heightened risk to the designated financial market utility; and

(ii) Has clearly defined and publicly disclosed procedures for facilitating the suspension and orderly exit of a participant that fails to meet the participation requirements.

(19) *Tiered participation arrangements.* The designated financial market utility identifies, monitors, and manages the material risks arising from arrangements in which firms that are not direct participants in the designated financial market utility rely on the services provided by direct participants to access the designated financial market utility's payment, clearing, or settlement facilities, whether the risks are borne by the designated financial market utility or by its participants as a result of their participation. The designated financial market utility—

(i) Conducts an analysis to determine whether material risks arise from tiered participation arrangements;

(ii) Where material risks are identified, mitigates or manages such risks; and

(iii) Reviews and updates the analysis conducted under paragraph (a)(19)(i) of this section the earlier of every two years or following material changes to the system design or operations or the environment in which the designated financial market utility operates if those changes could affect the analysis conducted under paragraph (a)(19)(i) of this section.

(20) *Links.* If it operates as a central counterparty, securities settlement system, or central securities depository and establishes a link with one or more of these types of financial market utilities or trade repositories, the designated financial market utility identifies, monitors, and manages risks related to this link. In this regard, each central counterparty in a link arrangement with another central counterparty covers, at least on a daily basis, its current and potential future exposures to the linked central counterparty and its participants, if any, fully with a high degree of confidence without reducing the central counterparty's ability to fulfill its obligations to its own participants.

(21) *Efficiency and effectiveness.* The designated financial market utility—

(i) Is efficient and effective in meeting the requirements of its participants and the markets it serves, in particular, with regard to its—

(A) Clearing and settlement arrangement;

(B) Risk-management policies, procedures, and systems;

(C) Scope of products cleared and settled; and

(D) Use of technology and communication procedures;

(ii) Has clearly defined goals and objectives that are measurable and achievable, such as minimum service levels, risk-management expectations, and business priorities; and

(iii) Has policies and procedures for the regular review of its efficiency and effectiveness.

(22) *Communication procedures and standards.* The designated financial market utility uses, or at a minimum accommodates, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.

(23) *Disclosure of rules, key procedures, and market data.* The designated financial market utility—

(i) Has clear and comprehensive rules and procedures;

(ii) Publicly discloses all rules and key procedures, including key aspects of its default rules and procedures;

(iii) Provides sufficient information to enable participants to have an accurate understanding of the risks, fees, and other material costs they incur by participating in the designated financial market utility;

(iv) Provides a comprehensive public disclosure of its legal, governance, risk management, and operating framework, that includes—

(A) *Executive summary.* An executive summary of the key points from paragraphs (a)(23)(iv)(B) through (D) of this section;

(B) *Summary of major changes since the last update of the disclosure.* A summary of the major changes since the last update of paragraph (a)(23)(iv)(C), (D), or (E) of this section;

(C) *General background on the designated financial market utility.* A description of—

(1) The designated financial market utility's function and the markets it serves,

(2) Basic data and performance statistics on its services and operations, such as basic volume and value statistics by product type, average aggregate intraday exposures to its participants, and statistics on the designated financial market utility's operational reliability, and

(3) The designated financial market utility's general organization, legal and regulatory framework, and system design and operations;

(D) *Standard-by-standard summary narrative.* A comprehensive narrative disclosure for each applicable standard set forth in this paragraph (a) with sufficient detail and context to enable a reader to understand the designated financial market utility's approach to controlling the risks and addressing the requirements in each standard; and

(E) *List of publicly available resources.* A list of publicly available resources, including those referenced in the disclosure, that may help a reader understand how the designated financial market utility controls its risks and addresses the requirements set forth in this paragraph (a); and

(v) Updates the public disclosure under paragraph (a)(23)(iv) of this section the earlier of every two years or following changes to its system or the environment in which it operates that would significantly change the accuracy of the statements provided under paragraph (a)(23)(iv) of this section.

* * * * *

§ 234.4 [Removed]

■ 5. Remove § 234.4

§§ 234.5 through 234.7 [Redesignated as §§ 234.4 through 234.6]

■ 6. Redesignate §§ 234.5 through 234.7 as §§ 234.4 through 6, respectively.

§ 234.5 [Amended]

■ 7. In newly redesignated § 234.5, redesignate paragraph (b)(3)(iv) as paragraph (b)(3)(iii).

By order of the Board of Governors of the Federal Reserve System, October 28, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–26090 Filed 11–4–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–1207; Special Conditions No. 25–517–SC]

Special Conditions: Airbus Model A350–900 Series Airplane; Flight-Envelope Protection (Icing and Non-Icing Conditions); High-Incidence Protection and Alpha-Floor Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Airbus Model A350–900 series airplanes. These airplanes will have novel or unusual design features, associated with flight-envelope protection in icing and non-icing conditions, that use low-speed incidence protection and an alpha-floor function that automatically advances throttles whenever the airplane angle of attack reaches a predetermined value. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective* November 5, 2014.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, FAA, Airframe and Flightcrew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2011; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2008, Airbus applied for a type certificate for their new Model A350–900 series airplane. Later, Airbus requested, and the FAA approved, an extension to the application for FAA type certification to November 15, 2009. The Model A350–900 series airplane has a conventional layout with twin, wing-mounted, Rolls-Royce Trent XWB engines. It features a twin-aisle, 9-abreast, economy-class layout, and accommodates side-by-side placement of LD–3 containers in the cargo compartment. The basic Model A350–900 series airplane configuration accommodates 315 passengers in a standard two-class arrangement. The design cruise speed is Mach 0.85 with a maximum take-off weight of 602,000 lbs.

Type Certification Basis

Under title 14, Code of Federal Regulations (14 CFR) 21.17, Airbus must show that the Model A350–900 series airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the Model A350–900 series airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, Model A350–900 series airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36. The FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92 574, the ''Noise Control Act of 1972.''

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

The current airworthiness standards do not contain adequate safety standards for the unique features of the high-incidence protection system and the alpha-floor system for the Airbus Model A350–900 series airplane. Part I of the following special conditions is in lieu of §§ 25.103, 25.145(a), 25.145(b)(6), 25.201, 25.203, 25.207, and 25.1323(d). Part II is in lieu of §§ 25.21(g), 25.105, 25.107, 25.121, 25.123, 25.125, and 25.143.

Novel or Unusual Design Features

The Airbus Model A350–900 series airplane will incorporate the following novel or unusual design features: High-incidence protection and alpha-floor systems.

The high-incidence protection system replaces the stall-warning system during normal operating conditions by prohibiting the airplane from stalling. The high-incidence protection system limits the angle of attack at which the airplane can be flown during normal low-speed operation, impacts the longitudinal airplane handling characteristics, and cannot be overridden by the crew. The existing regulations do not provide adequate criteria to address this system.

The function of the alpha-floor system is to increase automatically the thrust on the operating engines under unusual circumstances where the airplane pitches to a predetermined high angle of attack or bank angle. The regulations do not provide adequate criteria to address this system.

Discussion

The current airworthiness standards do not contain adequate safety standards for the high-incidence protection system and the alpha-floor system for Airbus Model A350–900 series airplanes. Special conditions are needed.

The high-incidence protection system prevents the airplane from stalling and therefore, the stall-warning system is not needed during normal flight conditions. However, during failure conditions (which are not shown to be extremely improbable), the requirements of Title 14 Code of Federal Regulations (14 CFR) sections 25.203 and 25.207 apply, although slightly modified (i.e., the flight characteristics at the angle of attack for C_{LMAX} must be suitable in the traditional sense, and stall warning must be provided in a conventional manner).

The alpha-floor function automatically advances the throttles on the operating engines under flight circumstances of low speed if the airplane reaches a predetermined high angle of attack. This function is intended to provide increased climb capability.

These special conditions are intended to parallel the requirements provided in EASA A350 Certification Review Item (CRI):

- B–1, ''Stalling and Scheduled Operating Speeds,'' and
- B–09, ''Flight in Icing Conditions,''

to adapt the new standards for performance and handling characteristics of transport-category airplanes in icing conditions introduced by Amendment 25–121 to the envelope-protected Airbus Model A350–900 series airplane.

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

Discussion of Comments

Notice of proposed special conditions No. 25–12–09–SC for the Airbus Model A350–900 series airplanes was published in the **Federal Register** on December 19, 2012 (77 FR 75066). Comments were received from Transport Canada Civil Aviation (TCCA) and Agência Nacional De Aviação Civil (ANAC).

TCCA Comments and FAA Responses

1. TCCA commented that, despite informal attempts to obtain harmonization on requirements for high-incidence protection systems,

harmonization has not been achieved. However, TCCA also correctly points out that this will be the subject of an ARAC harmonization effort through the Flight Test Harmonization Working Group (FTHWG).

The FAA agrees with TCCA that the ARAC FTHWG will attempt to reach a harmonized position with regard to TCCA and ANAC comments; these special conditions are necessary in the interim.

2. TCCA also commented that the concept of using V_{SR} to establish operational speeds in both icing and non-icing conditions was well established, and not significantly commented upon, in earlier rulemaking efforts. Because these special conditions modify that concept in icing conditions, TCCA requested that this point be carefully evaluated.

The FAA agrees with TCCA that this point should be carefully evaluated in the ARAC FTHWG. However, at this time, the FAA considers that the robust flight-envelope protection requirements of these special conditions provide compensating requirements that result in an adequate level of safety.

3. In consideration of a recent accident on a test airplane, TCCA requested that consideration be given to including specific requirements for having the protection system functioning in ground-effect during takeoff and landing.

The FAA agrees that this point deserves consideration, and notes that it should be carefully evaluated in the ARAC FTHWG. However, at this time, the FAA considers that the general requirements (those that apply in all phases of flight) of these special conditions provide an adequate level of safety.

4. The TCCA notes that many airframe ice-protection systems have a probable failure condition (single failure) where some or all of the airframe ice protection is lost. TCCA further notes that no proposed demonstration requirements are specified for failures of airframe ice protection, which are most likely in the probable/remote range.

The FAA acknowledges this point, and notes that it will be further evaluated in the ARAC FTHWG. However, at this time, it is the FAA's opinion that these special conditions, along with the requirements of § 25.1309, provide an adequate level of safety.

5. Demonstration requirements for failures of the airframe ice-protection system less than extremely improbable should be specified, according to the TCCA.

The FAA agrees that this point should be carefully evaluated in the ARAC FTHWG. However, at this time, the FAA believes that the general requirements of these special conditions, along with the general requirements of § 25.1309, provide an adequate level of safety.

6. TCCA also opined that the protection system should be effective in foreseeable maneuvers such as the sideslip that is developed during takeoff and landing in crosswind conditions.

The FAA agrees that this point should receive additional evaluation in the ARAC FTHWG. However, after consideration, it is the FAA's position that the general requirements of these special conditions, combined with the current demonstration requirements in crosswind conditions, provide an adequate level of safety.

7. TCCA recommended introducing a new requirement: ''The protection system must be designed to operate and perform its intended function in sideslip angles appropriate to normal airplane operation.''

The FAA intends that this point will be part of the analysis conducted by the ARAC FTHWG. However, at this time, it is the FAA's position that the general requirements of these special conditions, combined with the general flight-test requirements in various sideslip conditions, provide an adequate level of safety.

8. TCCA also recommended guidance on the adverse effects of airframe and system tolerances that should be taken into account when determining $V_{Min}1g$.

The FAA considers that the general requirements of these special conditions, along with the guidance in AC 25–7, provide an adequate level of safety. However, additional evaluation may be conducted in the ARAC FTHWG.

9. TCCA requested clarification on whether the stall warning required for each abnormal configuration likely to be used, following system failure, should include both icing and non-icing requirements.

Whether the stall warning must include both icing and non-icing requirements depends upon the failure scenario, and whether it meets § 25.1309. Reliance on § 25.1309 requirements provides an adequate level of safety in this case. However, this subject may be revisited in the upcoming ARAC FTHWG.

10. TCCA recommended that the FAA issue guidance on accounting for the adverse effects of airframe and system tolerances as a result of leading-edge degradation due to damage within permissible limits, and contamination due to dirt and insects (when demonstrating handling characteristics to alpha max).

The FAA may issue such guidance, subsequent to evaluation in the ARAC FTHWG. However, at this time, it is the FAA's opinion that the general requirements of these special conditions, along with the guidance in AC 25–7, provide an adequate level of safety.

11. TCCA also recommended additional flight testing requirements to ensure the ''robustness'' of the high-angle-of-attack protection systems, in both icing and non-icing conditions.

The FAA agrees that this point should be carefully evaluated in the ARAC FTHWG. However, at this time, the FAA considers that additional flight testing requirements are not necessary, as the requirements of these special conditions provide an adequate level of safety.

12. TCCA requested that the FAA add further clarification for sections 5.1(b)(3)i and 5.1(b)(3)ii of these special conditions regarding the requirement for straight or turning flight, and power setting.

The FAA agrees that this point should be carefully revisited in the ARAC FTHWG. However, at this time, the FAA considers that the requirements of these sections are sufficiently defined in section 5.1(a).

13. TCCA recommended that the FAA delete section 5.3(b), if it adopted TCCA's earlier comments.

The FAA agrees that this point should be carefully evaluated in the ARAC FTHWG.

14. TCCA recommended that operational speeds should be determined based on a factored V_{SR} or $V_{min}1g$ in icing conditions, in addition to the requirement for minimum maneuver margins. TCCA has provided specific proposals for those factors.

The FAA agrees that this point should be carefully evaluated in the ARAC FTHWG. However, at this time, the FAA considers that the requirements of these special conditions provide an adequate level of safety because minimum maneuver margins are typically more limiting than those based on factored V_{SR} or $V_{min}1g$.

ANAC Comments

1. ANAC questioned the use of different operational-speed bases for icing and non-icing conditions.

The FAA agrees that this point should be carefully evaluated in the ARAC FTHWG. However, at this time, it is the FAA's opinion that the differing requirements for icing and non-icing conditions are appropriate and provide an adequate level of safety. The non-icing speed basis is used for nearly

every flight, while the icing speed basis is based on an assumed lengthy accumulation of ice, which may not be present on every flight in icing conditions. Therefore, the safety trade-off (i.e., differing requirements) between increased approach speeds and margin to stall is more appropriate in icing conditions.

2. ANAC proposed to have the same basic requirements in icing and non-icing, allowing only some degradation in handling characteristics at V_{CLmax} in icing conditions.

The FAA agrees that this point should be carefully evaluated in the ARAC FTHWG. However, at this time, the FAA considers that the rationale for differing requirements in icing and non-icing conditions is appropriate and provides an adequate level of safety.

3. ANAC recommended that the same high-incidence-protection demonstration of ''maximum rate achievable'' should be required for icing conditions.

The FAA agrees that this point should be carefully evaluated in the ARAC FTHWG. However, at this time, the FAA considers that the requirements of these special conditions provide an adequate level of safety. Historically, the FAA has allowed a small degradation for stall demonstrations in icing conditions (i.e., exceptions for high-entry-rate stalls). We have extended this philosophy to the requirements of these special conditions.

Additional FAA Response to Comments

The FAA acknowledges these comments, which will be fully discussed and resolved in the upcoming ARAC FTHWG sessions. The FAA notes that these special conditions are intended to parallel the requirements provided in EASA (as the certificating authority) A350 Certification Review Item (CRI):

- B–1, ''Stalling and Scheduled Operating Speeds,'' and
- B–09, ''Flight in Icing Conditions,''

to adapt the new standards for performance and handling characteristics of transport-category airplanes in icing conditions introduced by Amendment 25–121 to the envelope-protected Airbus Model A350–900 series airplane.

In the meantime, the FAA, as the validating authority, finds that these special conditions provide an adequate level of safety. No changes to the special conditions were made based on TCCA and ANAC comments.

Applicability

As discussed above, these special conditions are applicable to Airbus Model A350–900 series airplanes. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Airbus Model A350–900 series airplane is imminent, the FAA finds that good cause exists to make these special conditions effective upon publication.

Conclusion

This action affects only certain novel or unusual design features on the Airbus Model A350–900 series airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Airbus Model A350–900 series airplanes.

The current airworthiness standards do not contain adequate safety standards for the unique features of the high-incidence protection system and the alpha-floor system for the Airbus A350. Part I of the following special conditions is in lieu of §§ 25.103, 25.145(a), 25.145(b)(6), 25.201, 25.203, 25.207, and 25.1323(d). Part II is in lieu of §§ 25.21(g), 25.105, 25.107, 25.121, 25.123, 25.125, and 25.143.

Note: In the following paragraphs, ''In icing conditions'' means with the ice accretions (relative to the relevant flight phase) as defined in 14 CFR Part 25, Amendment 121 appendix C.

Special Conditions Part I: Stall Protection and Scheduled Operating Speeds

Foreword

In the following paragraphs, ''In icing conditions'' means with the ice accretions (relative to the relevant flight phase) as defined in 14 CFR part 25, Amendment 121 appendix C.

1. Definitions

These special conditions address novel or unusual design features of the Airbus Model A350–900 series airplane and use terminology that does not appear in 14 CFR part 25. For the purpose of these special conditions, the following terms describe certain aspects of these novel or unusual design features:

High-Incidence Protection System

A system that operates directly and automatically on the airplane's flying controls to limit the maximum angle of attack that can be attained to a value below that at which an aerodynamic stall would occur.

Alpha-Floor System

A system that automatically increases thrust on the operating engines when angle of attack increases through a particular value.

Alpha-Limit

The maximum angle of attack at which the airplane stabilizes with the high-incidence protection system operating and the longitudinal control held on its aft stop.

V_{CLmax}

An airspeed calculated from a variety of factors including load factor normal to the flight path at V_{CLmax}, airplane gross weight, aerodynamic reference wing area, and dynamic pressure.

V_{min}

The minimum steady flight speed in the airplane configuration under consideration with the high-incidence protection system operating. See paragraph 3 of these special conditions.

$V_{min}1g$

V_{min} corrected to 1g conditions. See paragraph 3 of these special conditions. It is the minimum calibrated airspeed at which the airplane can develop a lift force normal to the flight path and equal to its weight when at an angle of attack not greater than that determined for V_{min}.

2. Capability and Reliability of the High-Incidence-Protection System

These special conditions are issued in lieu of the paragraphs of 14 CFR part 25 referenced below. Acceptable capability and reliability of the high-incidence-protection system can be established by flight test, simulation, and analysis, as appropriate. The capability and reliability required are as follows:

1—It must not be possible during pilot induced maneuvers to encounter a stall and handling characteristics must be acceptable, as required by section 5 of these Special Conditions.

2—The airplane must be protected against stalling due to the effects of

wind-shears and gusts at low speeds as required by section 6 of these Special Conditions.

3—The ability of the high-incidence protection system to accommodate any reduction in stalling incidence must be verified in icing conditions.

4—The high-incidence protection system must be provided in each abnormal configuration of the high lift devices that is likely to be used in flight following system failures.

5—The reliability of the system and the effects of failures must be acceptable in accordance with § 25.1309.

3. Minimum Steady Flight Speed and Reference Stall Speed

In lieu of § 25.103, Minimum steady flight speed and Reference stall speed, the following requirements apply:

(a) The minimum steady flight speed, V_{min}, is the final stabilized calibrated airspeed obtained when the airplane is decelerated until the longitudinal control is on its stop in such a way that the entry rate does not exceed 1 knot per second. (See Appendix A, paragraph 3)

(b) The minimum steady flight speed, V_{min}, must be determined in icing and non-icing conditions with:

(1) The high-incidence protection system operating normally.

(2) Idle thrust and alpha-floor system inhibited;

(3) All combinations of flaps setting and, landing gear position for which V_{min} is required to be determined;

(4) The weight used when V_{SR} is being used as a factor to determine compliance with a required performance standard;

(5) The most unfavorable center of gravity allowable; and

(6) The airplane trimmed for straight flight at a speed achievable by the automatic trim system.

(c) The 1g minimum steady-flight speed, $V_{min}1g$, is the minimum calibrated airspeed at which the airplane can develop a lift force (normal to the flight path) equal to its weight, while at an angle of attack not greater than that at which the minimum steady flight speed of sub-paragraph (a) was determined. It must be determined in icing and non-icing conditions.

(d) The reference stall speed, V_{SR}, is a calibrated airspeed defined by the applicant. V_{SR} may not be less than a 1g stall speed. V_{SR} must be determined in non-icing conditions and expressed as:

$$V_{SR} \geq \frac{V_{CL_{MAX}}}{\sqrt{n_{zw}}}$$

Where:

$V_{CL_{MAX}}$ = Calibrated airspeed obtained when the load factor-corrected lift coefficient ($\frac{n_{zw}W}{qS}$) is first a maximum during the maneuver prescribed in sub-paragraph (e)(8) of this paragraph.

n_{ZW} = Load factor normal to the flight path at V_{CLmax}

W = Airplane gross weight;

S = Aerodynamic reference wing area; and

q = Dynamic pressure.

(e) V_{CLmax} is determined in non-icing conditions with:

(1) Engines idling, or, if that resultant thrust causes an appreciable decrease in stall speed, not more than zero thrust at the stall speed;

(2) The airplane in other respects (such as flaps and landing gear) in the condition existing in the test or performance standard in which V_{SR} is being used;

(3) The weight used when V_{SR} is being used as a factor to determine compliance with a required performance standard;

(4) The center of gravity position that results in the highest value of reference stall speed;

(5) The airplane trimmed for straight flight at a speed achievable by the automatic trim system, but not less than 1.13 V_{SR} and not greater than 1.3 V_{SR};

(6) Alpha-floor system inhibited; and

(7) The high-incidence protection system adjusted, at the option of the applicant, to allow higher incidence than is possible with the normal production system.

(8) Starting from the stabilized trim condition, apply the longitudinal control to decelerate the airplane so that the speed reduction does not exceed 1 knot per second.

4. Stall Warning

In lieu of § 25.207, the following requirements apply:

4.1 Normal Operation

If the capabilities of the high-incidence protection system are met, then the conditions of paragraph 2 are satisfied. These conditions provide an equivalent level of safety to § 25.207, Stall Warning, so the provision of an additional, unique warning device is not required.

4.2 High-Incidence Protection System Failure

Following failures of the high-incidence protection system, not shown to be extremely improbable, such that the capability of the system no longer satisfies items 1, 2, and 3 of paragraph 2, stall warning must be provided and must protect against encountering unacceptable characteristics and against encountering stall.

(a) Stall warning with the flaps and landing gear in any normal position must be clear and distinctive to the pilot and meet the requirements specified in paragraphs (d) and (e) below.

(b) Stall warning must also be provided in each abnormal configuration of the high lift devices that is likely to be used in flight following system failures.

(c) The warning may be furnished either through the inherent aerodynamic qualities of the airplane or by a device that will give clearly distinguishable indications under expected conditions of flight. However a visual stall warning device that requires the attention of the crew within the cockpit is not acceptable by itself. If a warning device is used, it must provide a warning in each of the airplane configurations prescribed in paragraph (a) above and for the conditions prescribed below in paragraphs (d) and (e) below.

(d) In non-icing conditions stall warning must meet the following requirements: Stall warning must provide sufficient margin to prevent encountering unacceptable characteristics and encountering stall in the following conditions:

(1) In power-off straight deceleration not exceeding 1 knot per second to a speed 5 knots or 5 percent CAS, whichever is greater, below the warning onset.

(2) In turning flight stall deceleration at entry rates up to 3 knots per second when recovery is initiated not less than 1 second after the warning onset.

(e) In icing conditions stall warning must provide sufficient margin to prevent encountering unacceptable characteristics and encountering stall, in power off straight and turning flight decelerations not exceeding 1 knot per second, when the pilot starts a recovery maneuver not less than three seconds after the onset of stall warning.

(f) An airplane is considered stalled when the behavior of the airplane gives the pilot a clear and distinctive indication of an acceptable nature that the airplane is stalled. Acceptable indications of a stall, occurring either individually or in combination are:

(1) A nose-down pitch that cannot be readily arrested

(2) Buffeting, of a magnitude and severity that is strong and effective deterrent to further speed reduction; or

(3) The pitch control reaches the aft stop and no further increase in pitch attitude occurs when the control is held full aft for a short time before recovery is initiated

(g) An aircraft exhibits unacceptable characteristics during straight or turning flight decelerations if it is not always possible to produce and to correct roll and yaw by unreversed use of aileron and rudder controls, or abnormal nose-up pitching occurs.

5. Handling Characteristics at High Incidence

In lieu of both § 25.201 and § 25.203, the following requirements apply:

5.1 High-Incidence Handling Demonstrations

In lieu of § 25.201: High-incidence handling demonstration in icing and non-icing conditions

(a) Maneuvers to the limit of the longitudinal control, in the nose up pitch, must be demonstrated in straight flight and in 30° banked turns with:

(1) The high-incidence protection system operating normally.

(2) Initial power conditions of:

I: Power off

II: The power necessary to maintain level flight at 1.5 V_{SR1}, where V_{SR1} is the reference stall speed with flaps in approach position, the landing gear retracted and maximum landing weight. (See Appendix A, paragraph 5)

(3) Alpha-floor system operating normally unless more severe conditions are achieved with inhibited alpha floor.

(4) Flaps, landing gear and deceleration devices in any likely combination of positions (see Appendix A, paragraph 6).

(5) Representative weights within the range for which certification is requested; and

(6) The airplane trimmed for straight flight at a speed achievable by the automatic trim system.

(b) The following procedures must be used to show compliance in non-icing and icing conditions:

(1) Starting at a speed sufficiently above the minimum steady flight speed to ensure that a steady rate of speed reduction can be established, apply the longitudinal control so that the speed reduction does not exceed 1 knot per second until the control reaches the stop (see Appendix A, paragraph 3).

(2) The longitudinal control must be maintained at the stop until the airplane has reached a stabilized flight condition and must then be recovered by normal recovery techniques.

(3) Maneuvers with increased deceleration rates

(i) In non-icing conditions, the requirements must also be met with increased rates of entry to the incidence limit, up to the maximum rate achievable.

(ii) In icing conditions, with the anti-ice system working normally, the requirements must also be met with increased rates of entry to the incidence limit, up to 3kt/s.

(4) Maneuver with ice accretion prior to operation of the normal anti-ice system

With the ice accretion prior to operation of the normal anti-ice system, the requirement must also be met in deceleration at 1kt/s up to FBS (with and without alpha floor).

5.2 Characteristics in High-Incidence Maneuvers

In lieu of § 25.203: Characteristics in High Incidence (see Appendix A, paragraph 7).

In icing and non-icing conditions:

(a) Throughout maneuvers with a rate of deceleration of not more than 1 knot per second, both in straight flight and in 30° banked turns, the airplane's characteristics must be as follows:

(1) There must not be any abnormal nose-up pitching.

(2) There must not be any uncommanded nose-down pitching, which would be indicative of stall. However reasonable attitude changes associated with stabilizing the incidence at Alpha limit as the longitudinal control reaches the stop would be acceptable. (See Appendix A, paragraph 7.3)

(3) There must not be any uncommanded lateral or directional motion and the pilot must retain good lateral and directional control, by conventional use of the controls, throughout the maneuver.

(4) The airplane must not exhibit buffeting of a magnitude and severity that would act as a deterrent from completing the maneuver specified in 5.1.(a).

(b) In maneuvers with increased rates of deceleration some degradation of characteristics is acceptable, associated with a transient excursion beyond the stabilized Alpha-limit. However the airplane must not exhibit dangerous characteristics or characteristics that would deter the pilot from holding the longitudinal control on the stop for a period of time appropriate to the maneuver.

(c) It must always be possible to reduce incidence by conventional use of the controls.

(d) The rate at which the airplane can be maneuvered from trim speeds associated with scheduled operating speeds such as V_2 and V_{REF} up to Alpha-limit must not be unduly damped or be significantly slower than can be achieved on conventionally controlled transport airplanes.

5.3 Characteristics Up to Maximum Lift Angle of Attack

(a) In non-icing conditions:

Maneuvers with a rate of deceleration of not more than 1 knot per second up to the angle of attack at which V_{CLmax} was obtained as defined in paragraph 3 must be demonstrated in straight flight and in 30° banked turns with:

(1) The high-incidence protection deactivated or adjusted, at the option of the applicant, to allow higher incidence than is possible with the normal production system.

(2) Automatic thrust increase system inhibited

(3) Engines idling

(4) Flaps and landing gear in any likely combination of positions

(5) The airplane trimmed for straight flight at a speed achievable by the automatic trim system.

(b) In icing conditions:

Maneuvers with a rate of deceleration of not more than 1 knot per second up to the maximum angle of attack reached during maneuvers from 5.1(b)(3)(ii) must be demonstrated in straight flight with:

(1) The high-incidence protection deactivated or adjusted, at the option of the applicant, to allow higher incidence than is possible with the normal production system.

(2) Automatic thrust increase system inhibited

(3) Engines idling

(4) Flaps and landing gear in any likely combination of positions

(5) The airplane trimmed for straight flight at a speed achievable by the automatic trim system.

(c) During the maneuvers used to show compliance with paragraphs (a) and (b) above, the airplane must not exhibit dangerous characteristics and it must always be possible to reduce angle of attack by conventional use of the controls. The pilot must retain good lateral and directional control, by conventional use of the controls, throughout the maneuver.

6. Atmospheric Disturbances

Operation of the high-incidence protection system must not adversely affect aircraft control during expected levels of atmospheric disturbances, nor impede the application of recovery procedures in case of wind-shear. This must be demonstrated in non-icing and icing conditions.

7. Alpha Floor

In icing and non-icing conditions, the Alpha-floor setting must be such that the airplane can be flown at the speeds and bank angles specified in § 25.143(h). It also must be shown that the alpha-floor setting does not interfere with normal maneuvering of the airplane. In addition, there must be no alpha-floor triggering unless appropriate when the aircraft is flown in usual operational maneuvers and in turbulence.

8. Proof of Compliance

In addition to those in § 25.21(b), the following requirement applies:

(b) The flying qualities must be evaluated at the most unfavorable center of gravity (CG) position.

9. For §§ 25.145(a), 25.145(b)(6), and 25.1323(d), the Following Requirements Apply

§ 25.145(a) V_{min} in lieu of ''stall identification''

§ 25.145(b)(6) V_{min} in lieu of V_{SW}

§ 25.1323(d) ''From 1.23 V_{SR} to V_{min}'' in lieu of ''1.23 V_{SR} to stall warning speed'' and ''speeds below V_{min}'' in lieu of ''speeds below stall warning''

Special Conditions Part II: Credit for Robust Envelope Protection in Icing Conditions

1. In lieu of § 25.21(g)(1), the following requirement applies:

In lieu of § 25.21, Proof of compliance:

(g) The requirements of this subpart associated with icing conditions apply only if certification for flight in icing conditions is desired. If certification for flight in icing conditions is desired, the following requirements also apply (see AC 25–25):

(1) Each requirement of this subpart, except §§ 25.121(a), 25.123(c), 25.143(b)(1) and (b)(2), 25.149, 25.201(c)(2), 25.207(c) and (d), and 25.251(b) through (e), must be met in icing conditions. Compliance must be shown using the ice accretions defined in Appendix C, assuming normal operation of the airplane and its ice protection system in accordance with the operating limitations and operating procedures established by the applicant and provided in the Airplane Flight Manual.

2. Define the stall speed as provided in SC Part I, in lieu of § 25.103.

3. The following requirements apply in lieu of § 25.105(a)(2)(i):

In lieu of § 25.105, Take-off:

(a) The take-off speeds prescribed by § 25.107, the accelerate-stop distance prescribed by § 25.109, the take-off path prescribed by § 25.111, and the take-off distance and take-off run prescribed by § 25.113, must be determined, and the net take-off flight path prescribed by § 25.115, must be determined in the selected configuration for take-off at each weight, altitude, and ambient temperature within the operational limits selected by the applicant—

. . .

(2) In icing conditions, if in the configuration of § 25.121(b) with the ''Take-off Ice'' accretion defined in Appendix C:

(i) the V_2 speed scheduled in non-icing conditions does not provide the maneuvering capability specified in § 25.143(h) for the takeoff configuration, or

4. In lieu of § 25.107(c) and (g), the following requirements apply, with additional sections (c') and (g'):

In lieu of § 25.107, Take-off speeds:

(c) in non-icing conditions V_2, in terms of calibrated airspeed, must be selected by the applicant to provide at least the gradient of climb required by § 25.121(b) but may not be less than—

(1) V_{2MIN};

(2) V_R plus the speed increment attained

(in accordance with § 25.111(c)(2)) before reaching a height of 35 feet above the takeoff surface; and

(3) A speed that provides the maneuvering capability specified in § 25.143(h).

(c') in icing conditions with the ''take-off ice'' accretion defined in Appendix C, V_2 may not be less than—

(1) the V_2 speed determined in non-icing conditions

(2) A speed that provides the maneuvering capability specified in § 25.143(h).

(g) in non-icing conditions, $V_{FTO,}$ in terms of calibrated airspeed, must be selected by the applicant to provide at least the gradient of climb required by § 25.121(c), but may not be less than

(1) 1.18 V_{SR}; and

(2) A speed that provides the maneuvering capability specified in § 25.143(h).

(g') in icing conditions with the ''Final take-off ice'' accretion defined in Appendix C, V_{FTO}, may not be less than

(1) the V_{FTO} speed determined in non-icing conditions

(2) A speed that provides the maneuvering capability specified in § 25.143(h).

5. In lieu of §§ 25.121(b)(2)(ii)(A), 25.121(c)(2)(ii)(A), and 25.121(d)(2)(ii), the following requirements apply:

In lieu of § 25.121, Climb: One-engine inoperative:

(b) Take-off; landing gear retracted. In the take-off configuration existing at the point of the flight path at which the landing gear is fully retracted, and in the configuration used in § 25.111 but without ground effect,

(2) The requirements of subparagraph (b)(1) of this paragraph must be met:

. . .

(ii) In icing conditions with the ''Take-off Ice'' accretion defined in Appendix C, if in the configuration of § 25.121(b) with the ''Take-off Ice'' accretion:

(A) The V_2 speed scheduled in non-icing conditions does not provide the maneuvering capability specified in § 25.143(h) for the take-off configuration; or

(c) Final take-off. In the en-route configuration at the end of the take-off path determined in accordance with § 25.111:

(2) The requirements of subparagraph (c)(1) of this paragraph must be met:

. . .

(ii) In icing conditions with the ''Final Take-off Ice'' accretion defined in Appendix C, if:

(A) The V_{FTO} speed scheduled in non-icing conditions does not provide the maneuvering capability specified in § 25.143(h) for the en-route configuration; or

(d)(2) The requirements of sub-paragraph (d)(1) of this paragraph must be met (ii) In icing conditions with the approach Ice accretion defined in Appendix C, in a configuration corresponding to the normal all-engines-operating procedure in which $V_{min}1g$ for this configuration does not exceed 110% of the $V_{min}1g$ for the related all-engines-operating landing configuration in icing, with a climb speed established with normal landing procedures, but not more than 1.4 V_{SR} (V_{SR} determined in non-icing conditions).

6. In lieu of § 25.123(b)(2)(i), the following requirements apply:

In lieu of § 25.123, En-route flight paths:

(b) The one-engine-inoperative net flight path data must represent the actual climb performance diminished by a gradient of climb of 1.1% for two-engined airplanes, 1.4% for three-engined airplanes, and 1.6% for four engined airplanes.

(2) In icing conditions with the ''En-route ice'' accretion defined in Appendix C if

(i) The minimum en-route speed scheduled in non-icing conditions does not provide the maneuvering capability specified in § 25.143(h) for the enroute configuration, or

7. In lieu of § 25.125(b)(2)(ii)(B), remove § 25.125(b)(2)(ii)(C) and replaced with the following requirements:

In lieu of § 25.125, Landing.

(b) In determining the distance in (a):

(1) The airplane must be in the landing configuration.

(2) A stabilized approach, with a calibrated airspeed of not less than V_{REF}, must be maintained down to the 50-foot height.

(i) In non-icing conditions, V_{REF} may not be less than:

(A) $1.23V_{SR0}$;

(B) V_{MCL} established under § 25.149(f); and

(C) A speed that provides the maneuvering capability specified in § 25.143(h).

(ii) In icing conditions, V_{REF} may not be less than:

(A) The speed determined in sub-paragraph (b)(2)(i) of this paragraph;

(B) A speed that provides the maneuvering capability specified in § 25.143(h) with the landing ice accretion defined in appendix C.

8. In lieu of § 25.143(j)(2)(i), the following requirements for controllability and maneuverability apply:

In lieu of § 25.143, General:

(j) For flight in icing conditions before the ice protection system has been activated and is performing its intended function, the following requirements apply:

(1) If activating the ice protection system depends on the pilot seeing a specified ice accretion on a reference surface (not just the first indication of icing), the requirements of § 25.143 apply with the ice accretion defined in appendix C, part II(e).

(2) For other means of activating the ice protection system, it must be demonstrated in flight with the ice accretion defined in appendix C, part II(e) that:

(i) The airplane is controllable in a pull-up maneuver up to 1.5 g load factor or lower if limited by AOA protection; and

(ii) There is no pitch control force reversal during a pushover maneuver down to 0.5 g load factor

9. In lieu of § 25.207, Stall warning, change to read as the requirements defined in Special Conditions Part I, above.

Appendix A—Guidance Material: Stalling and Scheduled Operating Speeds

1. Introduction

This Guidance Material provides suggested means of compliance for various aspects of Special Conditions Part I and replaces the AC 25–7C sections that are no longer applicable due to the conditions of Special Conditions Part 1.

2. Alpha Protection Tolerances

Flight testing for handling characteristics should be accomplished with the airplane build and system tolerances set to the most adverse condition for high-incidence protection. Flight testing for minimum steady flight speed and reference stall speed may be made with nominal airframe tolerances and AOA protection system settings if the combined root-sum-square (square root of the sum of the squares of each tolerance) effect of the tolerances is less than ±1 knot. If the effect is greater than ±1 knot, the most adverse airframe build and high-incidence protection system tolerance should be used.

3. Minimum Steady Flight Speed Entry Rate

In lieu of § 25.103(a) and § 25.203(a), see paragraphs 3 and 5.2 of Special Conditions Part I.

The minimum steady flight speed entry rate is defined as follows:

$$\text{Entry rate} = \frac{1.15\ V_{min}1g - 1.05\ V_{min}\ 1g}{\text{Time to decelerate from } 1.15\ V_{min}1g \text{ to } 1.05\ V_{min}1g} \text{ (knot CAS/sec)}$$

4. Maneuvering Capabilities at Scheduled Operating Speeds

(See § 25.143(h))

(1) The maneuver capabilities specified in § 25.143 (h) should be achieved at constant CAS.

(2) A low thrust or power setting normally will be the critical case for demonstrating the required maneuver capabilities. The thrust/power settings specified in paragraph § 25.143(h) are the maximum values that may be used in such cases. However, if the angle of attack at which the stick stop is reached (or other relevant characteristic occurs) is reduced with increasing thrust or power, it should be ensured that the required maneuver capabilities are retained at all higher thrust or power settings appropriate to the flight condition.

(3) The thrust or power setting for the all-engines operating condition at V_{2+xx} should

include any value used in noise abatement procedure.

5. Power Setting for Power-On Handling to High Incidence

(In lieu of § 25.201(a)(2), see paragraph 5.1 of Special Conditions Part I)

The power for power-on maneuver demonstrations to high incidence is that power necessary to maintain level flight without ice at a speed of 1.5 V_{SR1} at maximum landing weight, with flaps in the approach position and landing gear retracted, where V_{SR1} is the reference stall speed without ice in the same conditions (except power and effect of ice). The flap position to be used to determine this power setting is that position in which the reference stall speed does not exceed 110% of the reference stall speed with the flaps in the most extended landing position.

6. Position of Deceleration Devices During Handling to High Incidence

(In lieu of § 25.201, see paragraph 5.1 of Special Conditions Part I)

Demonstrations of maneuvers to high incidence for compliance with § 25.201 should include demonstrations with deceleration devices deployed for all flap positions unless limitations against use of the devices with particular flap positions are imposed. ''Deceleration devices'' include spoilers when used as air brakes, and thrust reversers when use in flight is permitted. High-incidence maneuver demonstrations with deceleration devices deployed should normally be carried out with an initial power setting of power off, except where deployment of the deceleration devices while power is applied is likely to occur in normal operations (e.g. use of extended air brakes during landing approach). Demonstrations with Alpha-floor both inhibited and operating normally should be included.

7. Characteristics During High-Incidence Maneuvers

In lieu of § 25.203, see paragraph 5.2 of Special Conditions Part I.

(1) The behavior of the airplane includes the behavior as affected by the normal functioning of any systems with which the airplane is equipped, including devices intended to alter the high-incidence handling characteristics of the airplane.

(2) Unless the design of the automatic flight control system of the airplane protects against such an event, the high-incidence characteristics, when the airplane is maneuvered under the control of the automatic flight control system should be investigated.

(3) Any reduction of pitch attitude associated with stabilizing the incidence at Alpha limit should be achieved smoothly, at a low pitch rate, such that it is not likely to be mistaken for natural stall identification.

8. Atmospheric Disturbances

See paragraph 6 of Special Conditions Part I.

In establishing compliance with paragraph 6 of Special Conditions Part I, the high-incidence protection system and alpha-floor system should be assumed to be operating normally. Simulator studies and analyses may be used but will need to be validated by limited flight testing to confirm handling qualities, at critical loadings, up to the maximum incidence shown to be reached by such studies and analyses.

9. Alpha Floor

See paragraph 7 of Special Conditions Part I.

Compliance with paragraph 7 of Special Conditions Part I should be considered as being met if alpha-floor setting provides a maneuvering capability of 40° bank angle,

—in the landing configuration

—at V_{REF} without ice, and at the recommended final approach speed with ice

—with the thrust for wings level unaccelerated −3° glide path,

without alpha-floor triggering.

Appendix B—Guidance Material

The following guidance is in lieu of AC 25–25, Performance and Handling Characteristics in the Icing Conditions Specified in Part 25, Appendix C:

Section 3. ACCEPTABLE MEANS OF COMPLIANCE—FLIGHT TEST PROGRAM

1. In lieu of b. Stall Speed, 25.103, the requirements in Special Conditions Part 1, 3. Minimum Steady Flight Speed and Reference Stall Speed are made.

2. In lieu of d., Takeoff Path, § 25.111, the following guidance is made.

If V_2 speed scheduled in icing conditions is greater than V_2 in non-icing conditions take-off demonstrations should be repeated to substantiate the speed schedule and distances for take-off in icing conditions. The effect of the take-off speed increase, thrust loss, and drag increase on the take-off path may be determined by a suitable analysis.

3. In lieu of i., Controllability and Maneuverability—General, § 25.143, the following guidance is made:

a. § 25.143(4)(c)4 Test maneuver for showing compliance with § 25.143(i)(3): Conduct steady heading sideslips to full rudder input, 180 pounds rudder force, or full lateral control authority (whichever comes first) at a trim speed corresponding to the minimum AFM speed and the power or thrust for a minus 3 degrees flight path angle.

b. § 25.143(5)(b) If activation of the ice protection system depends on a means of recognition other than that defined in paragraph (a) above, it is acceptable to demonstrate adequate controllability with the ice accretion prior to normal system operation, as follows. In the configurations listed below, trim the airplane at the specified speed, conduct a pull-up maneuver to 1.5g (or lower if limited by AOA protections) and pushover maneuver to 0.5g, and show that longitudinal control forces do not reverse.

(1) High lift devices retracted configuration (or holding configuration if different), holding speed, power or thrust for level flight.

(2) Landing configuration, V_{REF} for non-icing conditions, power or thrust for landing approach. (stop pull up after achievement of 1.5g or peak load factor with Full Back Stick).

4. In lieu of j., Longitudinal Control, § 25.145(2)(c), the following guidance is made for (c):

((1), (2), (a) and (b) are retained)

In the configurations listed below, trim the airplane at the minimum AFM speed. Reduce speed using elevator control to the minimum steady achievable speed and demonstrate prompt recovery to the trim speed using elevator control.

1 High lift devices retracted configuration, maximum continuous power or thrust.

2 Maximum lift landing configuration, maximum continuous power or thrust.

5. In lieu of q., Stall Demonstration, § 25.201, see the requirements in Special Conditions Part I, *Stall Protection and Scheduled Operating Speeds.*

6. In lieu of r., Stall Warning, § 25.207, see the requirements in Special Conditions Part I, paragraph 4—*Stall Warning.*

7. In lieu of u., Natural Icing Conditions, § 25.1419(b), revise the ice accretion Tables 3 & 4 as follows:

TABLE 3—HOLDING SCENARIO—MANEUVERS

Configuration	CG	Trim speed	Maneuver
Flaps up, gear up	Optional (aft range)	Holding, except at Minimum AFM speed for the high AoA maneuver.	• Level, 40° banked turn, • Bank-to-bank rapid roll, 30°–30°, • Speed-brake extension, retraction, • Deceleration to alpha-max (1 knot/second deceleration rate, wings level, power off).
Flaps in intermediate positions, gear up.	Optional (aft range)	Minimum AFM speed	Level deceleration in a 1 knot/second deceleration until deceleration is stopped due to alpha-floor triggering.

TABLE 3—HOLDING SCENARIO—MANEUVERS—Continued

Configuration	CG	Trim speed	Maneuver
Landing flaps, gear down	Optional (aft range)	VREF (Minimum AFM speed)	• Level, 40° banked turn, • Bank-to-bank rapid roll, 30°–30°, • Speed-brake extension, retraction (if approved), • Deceleration to alpha-max (1 knot/second deceleration rate, wings level, power off).

TABLE 4—APPROACH/LANDING SCENARIO—MANEUVERS

Test condition	Ice accretion thickness (*)	Configuration	CG	Trim speed	Maneuver
	First 13 mm (0.5 inch).	Flaps up, gear up ..	Optional (aft range)	Holding	No specific test.
1	Additional 6.3 mm (0.25 in) (19 mm (0.75 in) total).	First intermediate flaps, gear up.	Optional (aft range)	Minimum AFM speed.	• Level 40° banked turn, • Bank-to-bank rapid roll, 30°–30°, • Speed brake extension and retraction (if approved), • 1kt/s Level deceleration until the deceleration is stopped due to alpha-floor triggering.
2	Additional 6.3 mm (0.25 in) (25 mm (1.00 in) total).	First intermediate flaps, gear up (as applicable).	Optional (aft range)	Minimum AFM speed.	• Bank-to-bank rapid roll, 30°–30°, • Speed brake extension and retraction (if approved), • 1kt/s Level deceleration until the deceleration is stopped due to alpha-floor triggering.
3	Additional 6.3 mm (0.25 in) (31 mm (1.25 in) total).	Landing flaps, gear down).	Optional (aft range)	V_{REF} (Minimum AFM speed).	• Bank-to-bank rapid roll, 30°–30°, • Speed brake extension and retraction (if approved), • Bank to 40° • Deceleration to alpha-max.

(*) The indicated thickness is that obtained on the parts of the unprotected airfoil with the highest collection efficiency.

8. In lieu of AC 25–25, 3. v., Failure conditions, § 25.1309, the following guidance is made for (2)(d):

(2) *Acceptable Test Program*

(d) In the configurations listed below, trim the airplane at the minimum AFM speed. Decrease speed to the minimum steady achievable speed, plus 1 second and demonstrate prompt recovery using the same recovery maneuver as for the non-contaminated airplane. It is acceptable for stall warning to be provided by a different means (for example, by the behavior of the airplane) for failure cases not considered probable.

1 High lift devices retracted configuration: Straight/Power Off.

2 Landing configuration: Straight/Power Off.

Issued in Renton, Washington.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–26289 Filed 11–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP24

Expanded Access to Non-VA Care Through the Veterans Choice Program

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its medical regulations concerning its authority for eligible veterans to receive care from non-VA entities and providers. The Veterans Access, Choice, and Accountability Act of 2014 directs VA to establish a program to furnish hospital care and medical services through non-VA health care providers to veterans who either cannot be seen within the wait-time goals of the Veterans Health Administration or who qualify based on their place of residence (hereafter referred to as the Veterans Choice Program, or the ''Program''). The law also requires VA to publish an interim final rule establishing this program. This interim final rule defines the parameters of the Veterans Choice Program, and clarifies aspects affecting veterans and the non-VA providers who will furnish hospital care and medical services through the Veterans Choice Program.

DATES: *Effective Date:* This rule is effective on November 5, 2014.

Comment date: Comments must be received on or before March 5, 2015.

ADDRESSES: Written comments may be submitted by email through *http://www.regulations.gov;* by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to ''RIN 2900–AP24, Expanded Access to Non-VA Care through the Veterans Choice Program.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the

comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kristin Cunningham, Director, Business Policy, Chief Business Office (10NB), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 382–2508. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Executive Summary: Purpose of This Regulatory Action: We are creating new regulations to define and authorize the Veterans Choice Program required by section 101 of the Veterans Access, Choice, and Accountability Act of 2014, as modified by the Department of Veterans Affairs Expiring Authorities Act of 2014. Specifically, under this Program, eligible veterans may elect to receive hospital care and medical services from eligible non-VA entities and providers. The Program does not modify VA's previously existing authorities to furnish care through non-VA providers, but instead enhances VA's options to furnish care that is timely and available in veterans' communities.

Summary of the Major Provisions of this Regulatory Action: This interim final rule—

- Modifies VA's existing copayment regulations to clarify that a copayment of $0 is owed at the time of service for eligible veterans receiving care or services through the Program. VA will determine the copayment amount after the provider bills VA for the cost of furnished care, and veterans may be liable for some or all of the copayment amount at that time. Copayment rates will not exceed those currently established in regulation.
- Establishes the scope of the Program, including the types of care and services that are covered. By law, the Program is authorized to run until August 7, 2017, or until the Veterans Choice Fund established by the Act is exhausted.
- Defines key terms used throughout the regulation. These terms include episode of care, which is limited to 60 days but includes follow-up appointments and ancillary and specialty services; health-care plan, which includes any insurance plan or contract or agreement other than Medicare, Medicaid, or TRICARE; residence, which is a legal residence or personal domicile; VA medical facility, which includes VA hospitals, community-based outpatient clinics, and VA health care centers; and the wait-time goals of the Veterans Health Administration, which are to furnish care within 30 days of either the date that an appointment is deemed clinically appropriate by a VA health care provider, or if no such clinical determination has been made, the date a veteran prefers to be seen.
- Defines eligibility criteria for veterans to participate in the Program. In general, veterans must have been enrolled in the VA health care system on or before August 1, 2014, or must be within 5 years of post-combat separation. Veterans must also either be unable to schedule an appointment within the wait-time goals of the Veterans Health Administration or qualify based on their place of residence. Veterans may qualify based on their place of residence if they live more than 40 miles from the closest VA medical facility; if they reside in a state without a VA medical facility that provides hospital care, emergency medical services, and surgical care rated by the Secretary as having a surgical complexity of standard, and they reside more than 20 miles from a medical facility that offers these services in another state; or, with certain exceptions, if they reside 40 miles or less from a VA medical facility and must travel by air, boat, or ferry, or face an unusual or excessive burden in traveling to a VA medical facility because of geographical challenges.
- Explains the process for authorizing non-VA care under the Program. Eligible veterans may elect to receive VA or non-VA care. If they elect to receive non-VA care, they may select the provider who will furnish their care, if that provider is eligible.
- Describes the effect of the Program on other benefits and services available to veterans. In general, the Program does not affect a veteran's eligibility for hospital care or medical services under the medical benefits package. VA will pay for and fill prescriptions written by non-VA providers under the Program to the extent such prescriptions are covered by the VA medical benefits package. VA will reimburse veterans' copayments or cost-shares required by their other health-care plan to the extent authorized by law, and VA will calculate veterans' VA copayments as described above. VA will also reimburse veterans for travel to receive care under the Program if the veteran is otherwise eligible to participate in VA's beneficiary travel program.
- Identifies the start date for eligible veterans under the Program. VA is phasing in implementation of the Program to ensure it has the necessary resources in place to furnish hospital care and medical services to eligible veterans.
- Defines eligibility criteria for non-VA health care entities and providers to participate in the Program. Eligible non-VA entities and providers must enter into an agreement with VA to furnish care, and must be participating in the Medicare program, be a Federally-qualified health center, or be a part of the Department of Defense or the Indian Health Service. Non-VA entities or providers must be accessible to the veteran, meaning they must be able to provide timely care, must have the necessary qualifications to furnish the care, and must be within a reasonable distance of the veteran's residence. Eligible non-VA entities and providers must maintain at least the same or similar credentials and licenses as VA providers, and must submit information verifying compliance with this requirement annually.
- Establishes payment rates and methodologies for reimbursing participating non-VA health care entities and providers furnishing care and services through the Program. Except for in highly rural areas, VA may not pay an eligible entity or provider more than the applicable Medicare rate under Title XVIII of the Social Security Act for hospital care or medical services furnished under the Program. When there are no Medicare rates available, VA will follow its usual methodology for calculating payments to the extent such methodology is consistent with the Act. VA is a secondary payer for care furnished for a nonservice-connected disability if the veteran has another health-care plan. VA will only pay for authorized care where an actual encounter with a health care provider occurs. Veterans must seek authorization from VA before receiving care.
- Establishes a claims processing system to receive requests for payment and to provide accurate and timely payments for claims received under the Program. This system will be managed by the Veterans Health Administration's Chief Business Office.

Costs and Benefits: As further detailed in the *Regulatory Impact Analysis,* which can be found as a supporting document at *http://www.regulations.gov* and is available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date,'' the interim final rule will affect eligible veterans and eligible non-VA health care entities and providers. Eligible veterans may elect to receive, at VA expense, care from a non-VA provider of their choice that is eligible

and accessible to them. These providers generally will either be able to provide care sooner than VA could or are located closer to the eligible veteran's residence than a VA medical facility. The Program is authorized to run for 3 years, or until resources appropriated in the Veterans Choice Fund are exhausted, and is intended as a short-term solution to expand access to care while VA enhances its capacity to furnish care in a timely and accessible manner. Participating eligible non-VA health care entities and providers will receive payment for furnishing authorized hospital care and medical services to eligible veterans under the Program.

General Discussion: On August 7, 2014, the President signed into law the Veterans Access, Choice, and Accountability Act of 2014 (''the Act,'' Public Law 113–146, 128 Stat. 1754). Further technical revisions to the Act were made on September 26, 2014, when the President signed into law the Department of Veterans Affairs Expiring Authorities Act of 2014 (Pub. L. 113–175, 128 Stat. 1901, 1906). Section 101 of the Act creates the Veterans Choice Program (''the Program''). Section 101 requires the Secretary to furnish hospital care and medical services to certain eligible veterans through agreements with identified eligible entities or providers. Sec. 101(a)(1)(A), Public Law 113–146, 128 Stat. 1754. Delivery of such care through non-VA health care providers will be at the election of eligible veterans. This interim final rulemaking primarily restates these mandates and prescriptions in a regulatory framework, and provides guidance where Congress' instructions were not clearly executable on the face of the law. Congress directed VA to publish interim final regulations concerning this program within 90 days of enactment. Sec. 101(n), Public Law 113–146, 128 Stat. 1754. This rulemaking complies with that mandate.

Nothing in this rulemaking modifies VA's existing authority to furnish non-VA care, such as under 38 U.S.C. 1703, 1725, 1728, 8111, or 8153. The requirements of those statutes and their implementing regulations continue to apply, and VA will use those authorities when appropriate. Any veteran currently receiving non-VA care who is eligible for the Program will be provided the opportunity to elect to participate in the Program or to continue being provided care under VA's other authorities. As discussed below, there are some differences between the Program and other non-VA care.

VA is making changes to several other regulations as part of this rulemaking. Specifically, VA is amending 38 CFR 17.108, 17.110, and 17.111 concerning copayment responsibilities for hospital care and medical services. Section 101(j) of the Act requires an eligible veteran to pay a copayment at the time of the appointment to the non-VA provider if such veteran would be required to pay a copayment for the receipt of hospital care or medical services at a VA medical facility. Under current practice, when veterans receive non-VA care, VA copayment obligations are not calculated until the end of the billing process. Consistent with this practice, VA is exercising its authority to establish copayment rates under 38 U.S.C. 1710(f) to revise its copayment regulations at §§ 17.108, 17.110, and 17.111 to state that veterans who receive hospital care and medical services under the Program are subject to a VA copayment of $0 at the time of service, and that their copayment liability will be determined after the authorized care is furnished, but will be no greater than the amounts already specified in §§ 17.108, 17.110, or 17.111.

Currently, no veterans are charged a VA copayment at the time of their appointment. This is true whether such care is furnished by a VA or non-VA provider. Under current practice, if a veteran has other health insurance, any payment by the other health insurance is first applied against the veteran's VA copayment liability, and if the third party payment is equal to or greater than the veteran's copayment liability, the veteran owes no VA copayment. Even if a veteran does not have other health insurance, VA does not bill the veteran for the applicable copayment until after the appointment. This VA practice has been followed for years but has never been prescribed in regulation.

For many veterans with other health-care plans, the experience under the Program will be the same as they would experience receiving non-VA care under another authority. Payments made by the veteran's health-care plan are generally enough to extinguish the VA copayment liability in full, and to the extent this happens under the Program, these veterans would owe no VA copayment. If the other health-care plan does not pay enough to cover the amount of the VA copayment, the veteran will be liable for the balance.

VA is making changes to §§ 17.108, 17.110, and 17.111 to make the veteran's experience under the Program more like the veteran's experience in VA facilities and under other non-VA care authorities described above. Specifically, VA is establishing the copayment amount under these authorities at $0 at the time of service and, consistent with §§ 17.108, 17.110, and 17.111, as amended, VA will notify non-VA providers that the VA copayment amount required at the time of service is $0. This ensures that VA's implementation of section 101(j), which states that non-VA entities and providers will collect at the time of furnishing care or services any copayment that would be required for the receipt of the care or services at a medical facility of the Department, is consistent with VA practice under existing non-VA care authorities and addresses a number of practical challenges, as described below.

While VA will authorize care in advance of an appointment, VA may not be able to determine the veteran's copayment liability until after VA receives a report of what specific services were furnished by the non-VA provider. For care provided by VA, there are specific copayment rates for different types of appointments. However, this coding practice is not necessarily consistent with the practices used by other health care providers. Thus, VA cannot accurately assess a veteran's potential copayment liability before care is actually furnished by the non-VA provider. When VA has received a report of what services were provided, it can then determine the proper copayment amounts for those services in accordance with §§ 17.108, 17.110, and 17.111. Establishing the copayment amount at $0 at the time of services will ensure that VA is consistently determining the copayment responsibilities for eligible veterans. This is also consistent with section 101(j)(1) of the Act, which provides that the Secretary must require a copayment from eligible veterans ''only if such eligible veteran would be required to pay a copayment for the receipt of such care or services at a medical facility of the Department.'' These changes to §§ 17.108, 17.110, and 17.111 will ensure that veterans are only liable for copayments they would have paid if the care or services had been provided in a VA facility or under the standard non-VA care program. We believe it is better to ensure that veterans are liable only for an appropriate copayment amount that is determined after the appointment than to institute a blanket requirement at the point of service that may result in either additional billing to the veteran or reimbursement to the veteran.

Billing the veteran at the end of the billing process is also consistent with VA's practice under existing non-VA care authorities. The difficulty in determining the appropriate copayment is present in the standard non-VA care program, but is not an issue because

when VA uses its existing authorities to pay for non-VA care, VA is the primary payer and can determine liabilities after the care is furnished. Thus, VA has resolved this issue through the standard non-VA care program administratively by calculating the copayment at the end of the billing process. This is a more efficient mechanism than assigning a copayment upfront that could be wrong and later determining that either reimbursement or further collections are needed.

VA is modifying § 17.108(b)(1) to note that copayments will be determined as set forth in paragraphs (b)(2), (b)(3), and a new (b)(4) of that section. The new paragraph (b)(4) provides that under the Program, the copayment amount is $0 at the time of service, and that the copayment liability will be determined at the end of the billing process. VA is revising § 17.108(c)(1) to include an exception as set forth in a new (c)(4) of that section. VA is also making a minor technical adjustment to paragraphs (b)(1) and (c)(1) to include care pursuant to a contract, provider agreement, or sharing agreement consistent with the authorized forms of agreement under the Act. The new paragraph (c)(4) includes the same language as the new paragraph (b)(4). VA also is modifying §§ 17.110(b) and 17.111(b) in a similar way. The changes to § 17.110 provide that veterans will owe a copayment of $0 at the time they fill a prescription, and the changes to § 17.111 read the same as those in § 17.108. VA notes that under the Program, only services that are considered hospital care and medical services may be furnished. Section 17.111 authorizes both institutional and non-institutional care, but only non-institutional care is considered part of hospital care or medical services under § 17.38(a)(1)(xi).

Section 17.1500 Purpose and Scope

Section 17.1500 states the purpose and scope of the Program authorized by section 101 of the Act. The Program is funded with $10 billion in appropriated resources in the Veterans Choice Fund through section 802 of the Act. The Program is authorized to continue until the date the Veterans Choice Fund is exhausted or until August 7, 2017, whichever occurs first. Sec. 101(p), Public Law 113–146, 128 Stat. 1754. Section 17.1500(a) cites to the Act but does not identify specifically the alternate termination events specified in the Act. When one of those events occurs, VA will no longer have authority to operate this Program. Absent further amendments to the Act, the Program will end upon the occurrence of one of these events, at which time VA will issue a direct final rule to remove this regulation from the Code of Federal Regulations.

Section 17.1500(b) defines the scope of the Program as authorizing non-VA hospital care and medical services to eligible veterans through agreements with eligible entities or providers. This is consistent with section 101(a)(1)(A) of the Act. Eligible veterans are described in § 17.1510, and eligible entities or providers are described in § 17.1530.

The Act authorizes VA to provide hospital care and medical services to eligible veterans. VA has defined the terms hospital care and medical services through regulation at § 17.38, which establishes the medical benefits package. Any care that is covered by the medical benefits package, including prescriptions such as prescription medications or prosthetic devices, may be furnished through the Program, but any services for which there are specific eligibility criteria that must be met to receive these services (such as dental care) are still subject to those eligibility standards.

Section 17.1505 Definitions

Section 17.1505 defines key terms for the Program.

The term ''appointment'' is defined in these regulations as an authorized and scheduled encounter with a health care provider for the delivery of hospital care or medical services. The definition excludes unscheduled visits and emergency room visits because they are not scheduled encounters and cannot be authorized in advance. The purpose of the Program is to offer veterans the option to receive non-VA care if they cannot obtain a scheduled visit from a VA provider in a timely or geographically convenient manner. There is no indication in the law that it was intended to authorize unscheduled non-VA care. Emergency care would, however, continue to be reimbursed by VA consistent with 38 CFR 17.120–132 and 17.1000–1008. In short, if a veteran visits a non-VA health care provider without seeking authorization from VA to schedule such an appointment, VA cannot use Program funds to pay for the services delivered and cannot provide reimbursement after the fact.

''Attempt to schedule'' is defined as contact with a VA scheduler or VA health care provider in which a stated request for an appointment is made. The contact must be with a VA employee who is responsible for scheduling appointments or with a VA health care provider. This limitation will ensure that an attempt to schedule only occurs when an individual contacts someone who has the capacity to actually schedule an appointment or, in the case of a VA health care provider, ensure that a scheduler is made aware of the need for an appointment. There must also be a statement by the veteran that he or she is requesting an appointment. If a veteran does not request an appointment, he or she would not have attempted to schedule an appointment. While VA will apply this standard liberally, a veteran must indicate a desire to be seen by a VA health care provider. The requirement of an attempt to schedule an appointment is established under section 101(b)(2)(A) of the Act as a prerequisite for certain veteran eligibility under the Program; that section states that veterans are eligible under this Program if they attempt or have attempted to schedule an appointment with VA but were unable to do so within the wait-time goals of the Veterans Health Administration.

The term ''episode of care'' is defined to mean a necessary course of treatment, including follow-up appointments and ancillary and specialty services, that lasts no longer than 60 days from the date of the first appointment with a non-VA health care provider under the Program. Section 101(h) of the Act states that VA must ensure that an eligible veteran receives hospital care or medical services, including follow up care, ''for a period not exceeding 60 days.'' If an eligible veteran requires care beyond 60 days, and either the veteran continues to qualify for the Program based on residence or if VA cannot schedule an appointment with the veteran within the wait-time goals of the Veterans Health Administration, we will contact the veteran before the 60 days have expired to determine if the veteran would like to continue receiving care from the non-VA health care provider. If the veteran does, VA will issue a new authorization for up to another 60 days.

A ''health-care plan'' has the same definition as provided in section 101(e)(4) of the Act. The Act defines a health-care plan as an insurance policy or contract, medical or hospital service agreement not administered by VA, under which health services for individuals are provided, or the expenses of such services are paid, except that it does not include any such policy, contract, agreement, or similar arrangement under the Medicare or Medicaid programs or TRICARE.

A ''residence'' is defined as a legal residence or personal domicile. A residence cannot be a post office box or non-residential point of delivery, because the address of the place a veteran resides is used to determine

eligibility under §§ 17.1510(b)(2)–(4). Sections 101(b)(2)(B)–(D) of the Act define eligibility based upon travel distance between a person's residence and a VA medical facility, and the regulatory definition recognizes that a post office box or other non-residential point of delivery could not be used to assess that eligibility criterion. However, we have added that a residence may be ''seasonal,'' and consequently, a veteran may maintain more than one residence, but only one residence at a time. Therefore, if a veteran lives in more than one location during a year, the veteran's residence is the residence or domicile where the person is staying at the time the veteran wants to receive hospital care or medical services through the Program. For example, if a veteran lived in New Hampshire during the summer months but in Florida during the winter months, and the veteran was seeking care in January, the veteran's residence in Florida would be used as the basis for determining his or her eligibility. Allowing for seasonal or multiple residences recognizes Congressional intent to reach, through the Program, those veterans who have geographical challenges in reaching a VA medical facility, without authorizing the use of Program funds for individuals who in fact are living near a VA medical facility at the time that they need an appointment. Homeless veterans currently provide an address to VA that is recorded in the Veterans Health Information Systems and Technology Architecture (VistA); this address is used for other VHA benefits and may be applied to veterans seeking to participate in the Program as well. For example, any homeless veteran who is residing in a place supported by a Department of Housing and Urban Development (HUD)-VA Supportive Housing (VASH) voucher can list that address, and any veteran using one of our community-based programs like the Homeless Grant and Per Diem or Health Care for Homeless Veterans programs can supply the address of the service provider.

The term ''schedule'' is defined to mean identifying and confirming a date, time, location, and entity or health care provider for an appointment, as the term appointment has been previously defined.

A ''VA medical facility'' is defined as a VA hospital, a VA community-based outpatient clinic (CBOC), or a VA health care center. We have included these types of VA facilities because they provide medical care or hospital services that may be provided as part of the Program. This is consistent with the phrase ''medical facility of the Department,'' as used in the Act in section 101(b)(2)(B) and elsewhere. Vet Centers, or Readjustment Counseling Service Centers, are not considered a VA medical facility because they do not furnish hospital care or medical services.

The term ''wait-time goals of the Veterans Health Administration'' is defined to mean, unless changed by further notice in the **Federal Register**, a date that is not more than 30 days from either the date that an appointment is deemed clinically appropriate by a VA health care provider, or if no such clinical determination has been made, the date a veteran prefers to be seen by a health care provider capable of furnishing the hospital care or medical services required by the veteran. In the event a VA health care provider identifies a time range when care must be provided (e.g., within the next 2 months), VA will use the last clinically appropriate date for determining whether or not such care is timely. Section 101(s)(1) of the Act defines the wait-time goals of the Veterans Health Administration as being ''not more than 30 days from the date on which a veteran requests an appointment for hospital care or medical services from [VA].'' However, section 101(s)(2) authorizes VA to identify a different wait-time goal by submitting a report to Congress within 60 days of the enactment of the Act, and publishing that goal in the **Federal Register** and on a public Web site. On October 3, 2014, VA exercised this option and submitted a report to Congress; on October 17, 2014, VA published in the **Federal Register**, and posted notice on its Web site that it is adopting the definition contained in this regulation. 79 FR 65219. This definition ensures that clinical considerations and the preferences of the veteran are taken into account. In some cases, the date that a veteran prefers to be seen for an appointment may be the date on which the veteran contacts VA for an appointment. In other situations, though, the date the veteran prefers to receive hospital care or medical services may not be for some time, such as if the veteran is traveling, or if the veteran would prefer to delay care. Defining ''wait-time goals of the Veterans Health Administration'' to include a determination that an appointment is clinically appropriate acknowledges the primary reason for the appointment—to provide clinically appropriate care. For example, a VA health care provider may determine that a veteran needs to be seen, but that such a visit would not be clinically useful until a certain time has passed (e.g., 2 months from the current appointment). This is a common scenario in the delivery of health care across the industry. In such a scenario, the wait-time goals of the Veterans Health Administration will be within 30 days of the date identified by a VA health care provider as clinically appropriate, even if the veteran requests to schedule the appointment immediately. In the event a VA health care provider identifies a time range when care must be provided (e.g., within the next 2 months), VA will use the last clinically appropriate date for determining whether or not such care is timely. For example, if a provider determines that a Veteran should be seen in October, VA will use October 31 as the clinically appropriate date. If no such clinical determination has been made, utilizing the preferred date of an appointment, rather than the date the veteran contacted VA, better reflects veterans' preferences for when they want to receive care. A veteran can specify any date, including the date the veteran contacts VA, as the preferred date for an appointment. The 30-day period established by this standard would begin on that preferred date.

VA believes that it may be necessary to make further revisions to its standards for the Program in the future. Specific metrics may evolve over time, and the prescribed methods of measurement today may not provide a full picture of veterans' experience in accessing health care in the future. VA has contracted with the Institute of Medicine to independently identify metrics that may be the basis for further changes to this standard. VA will carefully evaluate any recommendations from the Institute of Medicine or other sources and determine the most appropriate means of addressing or changing the standard, if warranted. Any such changes to the goals will be communicated through a report to Congress, an update to VA's Web site, and a publication in the **Federal Register**.

Section 17.1510 Eligible Veterans

VA will determine a veteran's eligibility to elect to receive non-VA care through the Program using a two-step process, consistent with the Act's structure and the requirements in section 101(b).

First, the veteran must have enrolled in the VA health care system under 38 CFR 17.36 on or before August 1, 2014, or the veteran must be eligible for hospital care and medical services under 38 U.S.C. 1710(e)(1)(D) and be a veteran described in 38 U.S.C.

1710(e)(3). These requirements are consistent with the standards established in sections 101(b)(1)(A)–(B) of the Act, and are included in §§ 17.1510(a)(1)–(2). If a veteran meets either of these requirements, the veteran then must also meet a criterion described in § 17.1510(b), and must provide the information required by § 17.1510(d).

Under § 17.1510(b)(1), a veteran is eligible if the veteran attempts, or has attempted, to schedule an appointment with a VA health care provider, but VA has been unable to schedule an appointment for the veteran within the wait-time goals of the Veterans Health Administration. As these terms are defined, this would mean that VA is unable to identify a particular date, time, location, and entity or health care provider within 30 days of the date that the appointment was deemed clinically necessary by a VA health care provider, or, if no such clinical determination has been made, the date that a veteran prefers to be seen by a health care provider capable of furnishing the hospital care or medical services required by the veteran. This is consistent with the requirements in the Act at section 101(b)(2)(A).

Under § 17.1510(b)(2), a veteran is eligible if the veteran resides more than 40 miles from the VA medical facility that is closest to the veteran's residence. This standard considers the distance between a veteran's residence, as defined in § 17.1505, and any VA medical facility, even if that facility cannot provide the care that the veteran requires. For example, if a veteran needs cardiac care and lives 10 miles from a VA community-based outpatient clinic (CBOC) that only offers primary care and mental health care, but 50 miles from a VA medical facility that offers cardiac care, the veteran would not be eligible based on his or her proximity to the CBOC. This interpretation is consistent with the plain language of the Act, which refers only to ''the medical facility of the Department that is closest to the residence of the veteran,'' without allowing VA to consider whether the facility can actually provide the care needed by the veteran. Sec. 101(b)(2)(B), Public Law 113–146, 128 Stat. 1754. Additionally, the Conference Report accompanying the legislation states that veterans are eligible if they live ''within 40 miles of a medical facility,'' again without regard to such facility's ability to provide the required care. H.R. Rpt. 113–564, p. 55. The use of the general article ''a'' demonstrates that Congress intended for this to refer to any facility, rather than to a specific facility. Nothing in the Act modifies or precludes VA from using its existing statutory authorities to furnish non-VA care, such as under 38 U.S.C. 1703, 1725, 1728, 8111, or 8153. Those statutes and their implementing regulations continue to apply, and VA will use those authorities as appropriate to ensure that veterans are able to access care.

Under § 17.1510(b)(3), a veteran is eligible if the veteran's residence is in a state without a full-service (meaning that it provides, on its own and not through a joint venture, hospital care, emergency medical services, and surgical care having a surgical complexity of standard) VA medical facility and the veteran lives more than 20 miles from such a facility. This language is consistent with the requirements in section 101(b)(2)(C) of the Act. As of the publication of this rule, veterans in three states would qualify under this standard: Alaska, Hawaii, and New Hampshire. No veteran residing in Alaska or Hawaii lives within 20 miles of a full-service VA medical facility in another state, but some veterans residing in New Hampshire do live within 20 miles of a full-service VA medical facility that is located in a bordering state. We note that this specific, special eligibility for veterans in states without full-service VA medical facilities further supports our view that the Act requires VA to find veterans ineligible who live within 40 miles of a VA medical facility, even if such facility cannot provide the specific care required. When read as a whole, the Act specifically addresses the ability of a facility to provide care only in section 101(b)(2)(C). We believe that, in addition to the arguments presented earlier in this rulemaking, the legislative specificity in section 101(b)(2)(C) underscores the absence of reference to this issue in section 101(b)(2)(B) of the Act.

As noted previously when discussing the definition of residence, a veteran's residence may change throughout the year but the veteran's residence at the time he or she wants to schedule an appointment will determine his or her eligibility under this paragraph. In the prior example we presented, a veteran who resides in New Hampshire in the summer and in Florida in the winter may be eligible under this paragraph during the summer months, but not during the winter.

We also note that the term ''surgical complexity of standard,'' used in § 17.1510(b)(3)(i) and section 101(b)(2)(C)(i)(III) of the Act, is a term of art coined by VA to describe the operative complexity of each VA medical facility with an inpatient surgical program. The designation of a VA medical facility's surgical complexity as ''standard'' is used by VA to establish infrastructure requirements and compliance with VA quality standards. A ''standard'' designation refers to a VA facility that has the appropriate infrastructure to provide at least the most basic forms of surgical care. VA has published a list of VA medical facilities complying with at least a standard level of surgical care on the following Web site: *www.va.gov/health/surgery.* VA will post notice on this Web site of any changes to this list of facilities.

Finally, under paragraph (b)(4) of this section, a veteran who resides in a location other than one in Guam, American Samoa, or the Republic of the Philippines that is 40 miles or less from a VA medical facility can be eligible under two scenarios. First, if the veteran must travel by air, boat, or ferry to reach such a VA medical facility, the veteran is eligible for non-VA care under the Program. This is consistent with the text in sections 101(b)(2)(D)(i) and (ii)(I) of the Act. Second, veterans who reside 40 miles or less from a VA medical facility are eligible if they face an unusual or excessive burden in accessing such a facility due to geographical challenges. Sec. 101(b)(2)(D)(ii)(II), Public Law 113–146, 128 Stat. 1754. VA has interpreted this standard through regulation so that if the veteran's travel to the nearest VA medical facility is impeded by the presence of a body of water (including moving and still water) or a geologic formation that cannot be crossed by road, the veteran is eligible for non-VA care under the Program. VA believes that the emphasis on a geographical challenge as referring only to naturally occurring permanent or semi-permanent conditions is consistent with the plain meaning of the Act. While VA is able to take into account other factors, such as traffic or weather conditions or the veteran's health, when making determinations regarding beneficiary travel benefits provided under 38 CFR part 70, the Act does not provide us the authority to apply these or similar factors in operating the Program because it specifically limits eligibility to geographical challenges without allowing for environmental or circumstantial challenges.

Under paragraph (c) of this section, a veteran who changes his or her residence and is participating in the Choice Program must update VA about the change within 60 days. A veteran's residence may be the basis for his or her eligibility for the Program under paragraphs (b)(2)–(b)(4) of this section, so it is essential that VA have current and accurate information to make an

eligibility determination. Veterans who are eligible based on being unable to be seen within the wait-time goals of the Veterans Health Administration must also provide this information so VA can determine if they would become eligible based on residence. It is also important that VA have accurate information about a veteran's residence to ensure we can contact a veteran regarding any issues and for billing purposes. We believe that 60 days is an appropriate period of time, as it will allow veterans sufficient opportunity to submit this information while ensuring that VA has the ability to make accurate determinations about eligibility for the Program.

In addition to meeting the eligibility criteria under paragraphs (a) and (b) of this section, a veteran must also provide to VA information about any health-care plan under which the veteran is covered. Section 17.1510(d) requires that a veteran provide this information to be able to receive authorized non-VA care through the Program. This is consistent with the requirement in the Act in section 101(e)(1), which states that before a veteran can receive hospital care or medical services under the Program, the veteran must provide information about other health insurance. Section 17.1510(d) requires a veteran to submit information and updated information to VA within 60 days if the veteran changes health-care plans. We believe that 60 days is an appropriate period of time, as it will allow veterans sufficient time to submit this information while ensuring that VA has the ability to provide accurate information to eligible entities and providers under the Program.

Under § 17.1510(e), VA will calculate distance between a veteran's residence and the nearest VA medical facility using a straight-line distance, rather than the driving distance. The Conference Report accompanying the final bill provides strong support for this interpretation, as it states, ''In calculating the distance from a nearest VA medical facility, it is the Conferees' expectation that VA will use geodesic distance, or the shortest distance between two points.'' H.R. Rpt. 113–564, p. 55. The shortest distance between two points is a straight line, so a veteran who is outside of a 40 mile radius of a VA medical facility would be eligible under this provision. VA understands that actual travel distances may be longer than 40 miles for some veterans who reside within the 40 mile radius based on the layout of roads or other factors, and to the extent that such travel is due to geographic challenges, these veterans may be eligible for the Program under § 17.1510(b)(4). These veterans may also be eligible to receive non-VA care under another authority.

Section 17.1515 Authorizing Non-VA Care

Section 17.1515 describes the process and requirements for authorizing non-VA care under this Program.

Paragraph (a) states that eligible veterans may choose between scheduling an appointment with a VA health care provider, being placed on an electronic waiting list for a VA appointment, or receiving authorized non-VA hospital care or medical services from an eligible entity or provider. Section 101(c) of the Act provides that eligible veterans can make an election to have the Secretary schedule an appointment for the veteran with a VA health care provider, place him or her on an electronic waiting list, or authorize non-VA care. If a veteran elects to receive VA care and VA is able to schedule an appointment for the veteran, even if such an appointment is outside of the wait-time goals of the Veterans Health Administration or is at a facility more than 40 miles from the veteran's residence, we will do so. Otherwise, we will place a veteran who elects to receive VA care on an electronic waiting list. We will continue to track and report the average length of time an individual must wait for an appointment, disaggregated by medical facility and type of care or services needed. We will provide this facility-level information at the time the veteran makes his or her choice so the veteran can make an informed election about whether to receive hospital care or medical services from a VA or non-VA health care provider. Sections 101(c)(1)(A) and (c)(2) require VA to schedule an appointment for a veteran or place the veteran on an electronic waiting list, which must be available to determine the place of an eligible veteran on the waiting list and to determine the average length of time an individual spends on a waiting list, disaggregated by medical facility and type of care or services needed. The Act clearly specifies that this information must be provided ''for purposes of allowing such eligible veteran to make an informed election.'' Sec. 101(c)(2)(B), Public Law 113–146, 128 Stat. 1754. Additionally, if the veteran elects to receive care from a non-VA health care provider, VA will notify the veteran by the most effective means available, as identified by the veteran, of the scope of the authorization for care, thereby complying with the requirements of section 101(c)(1)(B)(ii).

Section 17.1515(b) states that eligible veterans may specify a particular non-VA entity or health care provider from whom they wish to receive care, if the entity or health care provider is eligible under § 17.1530. Section 101(a)(2) of the Act establishes that veterans who are eligible for the Program based upon the wait-time standard have the right to select the specific health care provider they wish to see, so long as the provider is eligible under the Act and under § 17.1530. The Act does not address whether or not veterans who are eligible based upon residence may select a particular non-VA provider. VA is filling this gap in the law by providing these veterans the same opportunity to select a particular provider as veterans eligible based upon the wait-time standard. Eligible veterans may nevertheless choose not to make such a selection, and in such a situation, those veterans will be referred to an eligible entity or provider identified by VA.

Section 17.1520 Effect on Other Provisions

Section 17.1520 addresses the effect of the Program on other provisions and programs administered by VA. Paragraph (a) of this section provides that, generally, eligibility under the Program does not affect a veteran's eligibility for hospital care or medical services under the medical benefits package or other benefits addressed in part 17. If particular services, such as health care for newborns of veterans under 38 CFR 17.38(a)(xiv) and dental benefits under §§ 17.160–17.169, have unique eligibility standards, only veterans who are eligible under § 17.1510 and meet the eligibility standards for those services can elect to receive non-VA care for them. Nothing in the Act or these regulations waives the eligibility requirements established in other statutes or regulations.

The regulation also provides that notwithstanding any other provision of this part, VA will cover prescription medications and other prescriptions made while furnishing hospital care or medical services through the Program. This is consistent with section 101(a)(1)(A) of the Act, which requires VA to furnish medical services to eligible veterans under the Program, and with 38 U.S.C. 1710. VA fills emergency prescriptions written by non-VA health care providers, but does not normally fill prescriptions written by non-VA providers when veterans receive authorized non-VA care. However, we interpret the requirement in section 101 to furnish hospital care and medical services to include these benefits. The terms ''hospital care'' and ''medical services'' are defined through the medical benefits package at 38 CFR

17.38, which specifically includes prescription drugs, including over-the-counter drugs and medical and surgical supplies available under the VA national formulary system. 38 CFR 17.38(a)(1)(iii). Veterans receiving care under the Program are eligible because they either could not be seen within the wait-time goals of the Veterans Health Administration or because of their place of residence. Typically, VA requires veterans to visit a VA medical facility so one of our providers can establish that the prescription is medically needed and appropriate for the patient. Imposing such a requirement on veterans eligible under the Program would not make sense because their eligibility is predicated on either being unable to be seen within a timely manner or because of difficulties they face in traveling to a VA medical facility. We believe this decision is consistent with section 101(r) of the Act, which states that nothing in section 101 shall be construed to alter the process for filling and paying for prescription medications. This regulation does not alter how prescriptions are filled or purchased. VA will pay for prescriptions, including prescription drugs, over-the-counter drugs, and medical and surgical supplies prescribed by eligible entities and providers under the Program. However, VA will only pay for those items that are on the VA National Formulary, in accordance with § 17.38(a)(1)(iii), and eligible veterans will be charged a VA copayment, if applicable, as with all other care and services offered under the Program. If prosthetics are prescribed as part of the care that is provided under the Program, VA will pay for these items as well.

Section 17.1520(b) states that VA will be liable for any deductibles, cost-shares, or copayments required by the health-care plan of an eligible veteran participating in the Program and owed to the non-VA provider, to the extent that such reimbursement does not result in expenditures by VA for the furnished care or services that exceed the rates determined under § 17.1535. Currently, non-VA providers who accept VA payments for hospital care or medical services must accept VA payment as payment in full and cannot assess any additional charges. 38 CFR 17.55 and 17.56. By contrast, VA is a secondary payer under the Program for care and services related to a nonservice-connected disability. Under section 101(e)(3)(B)(ii) of the Act, VA is authorized to pay the cost of care or services that is not covered by a veteran's health-care plan, except that VA's payment may not exceed the rate established under § 17.1535. We interpret section 101(e)(3)(B)(ii) to authorize VA to cover the balance due the non-VA provider after any payment by the veteran's health-care plan and any payment made by the veteran, and to be liable for any copayments, cost-shares, or deductibles required of the veteran by the other health-care plan, up to the amount established under § 17.1535.

Under the Program, the non-VA provider is responsible for first billing the veteran's other health-care plan, if the care provided under the Program is related to a nonservice-connected disability. Any payment made by a health-care plan to the non-VA provider reduces the amount owed by VA as the secondary payer. If the balance due to the non-VA provider, after any payment by the veteran's health-care plan and any payment by the veteran, is less than the rate established under § 17.1535, VA will, consistent with its authority in section 101(e)(3)(B)(ii), cover the veteran's copayments, cost-shares, or deductibles required by the health-care plan. If the veteran paid any such costs to the non-VA provider, VA will reimburse the veteran for the paid costs.

To the extent the amount contributed by the health-care plan would cover the veteran's VA copayment obligation, VA will apply that amount to reduce the veteran's VA copayment obligation as determined under §§ 17.108, 17.110, and 17.111. In some instances, though, veterans will still owe a VA copayment. As is currently the case, to the extent the veteran qualifies for a hardship exemption or a waiver of that debt under §§ 17.104 or 17.105, the veteran may seek such relief. VA is establishing a hotline, 1–866–606–8198, that veterans and health care providers can call with questions about payments and liabilities.

Paragraph (c) of this section addresses the beneficiary travel program administered under 38 CFR part 70. This paragraph provides that veterans who are eligible for beneficiary travel under part 70 will be reimbursed for travel to and from the location of the eligible entity or provider who furnishes hospital care or medical services for an authorized appointment under the Program, even if there is another non-VA health care provider that is closer. Current regulations governing the beneficiary travel program at 38 CFR 70.30(b)(2) provide that VA will pay mileage reimbursement for travel between a beneficiary's residence and the closest non-VA health care provider that could furnish such care. For veterans who have the right to select a provider of their own choice under § 17.1515(b), they may select a provider who is slightly farther away from their residence than another non-VA provider who could furnish the same care. For veterans who elect non-VA care, VA may schedule an appointment with an eligible non-VA entity or provider that is farther away because that non-VA provider can see the veteran sooner. We believe that it is fair and consistent to provide mileage reimbursement in these instances. VA has authority under 38 U.S.C. 111(b)(2) to define the parameters under which it will reimburse eligible veterans for travel expenses, and VA is exercising that authority here to help veterans who obtain non-VA care through the Program access non-VA health care entities and providers. Hence, § 17.1520(c) waives the requirements of 38 CFR 70.30(b)(2) for purposes of the Program.

Section 17.1525 Start Date for Eligible Veterans

Section 17.1525 defines when eligible veterans may begin receiving hospital care and medical services through the Program. VA is phasing in implementation of the Program for different categories of eligible veterans to ensure that VA has the resources in place to support care for these veterans. Paragraph (a) of this section identifies the start date for eligible veterans based on which criterion in § 17.1510(b) they meet. In paragraph (a)(1) of this section, veterans who are eligible based on their place of residence under 17.1510(b)(2) through (b)(4) will be able to start receiving hospital care and medical services on the date of publication of this rule. We are starting with this population because it is more easily identified and less subject to change over time than those who are eligible based on being unable to be seen within the wait-time goals of the Veterans Health Administration. Veterans eligible under 17.1510(b)(1) will be able to start receiving hospital care and medical services no later than December 5, 2014. Paragraph (b) of this section states that notwithstanding the dates identified in paragraph (a), VA may publish a Notice in the **Federal Register** informing the public that veterans may receive care sooner. This will ensure VA has flexibility so that if we determine we have the necessary resources in place to furnish care, we can begin doing so without further delay.

Section 17.1530 Eligible Entities and Providers

Section 17.1530 defines requirements for non-VA entities and health care providers to be eligible to be reimbursed

for furnishing hospital care and medical services to eligible veterans under the Program. Paragraph (a) of this section provides that an entity or provider must be accessible to the veteran and be one of the four entities specified in section 101(a)(1)(B) of the Act. These include any health care provider that is participating in the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), including any physician furnishing services under such program; any Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)); the Department of Defense; or the Indian Health Service. Outpatient health programs or facilities operated by a tribe or tribal organization under the Indian Self-Determination and Education Assistance Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act are defined as Federally-qualified health centers in section 1905(l)(2)(B) of the Social Security Act and would be eligible providers under section 101(a)(1)(B).

Additionally, the entity or provider must not be a part of, or an employee of, VA, or if the provider is an employee of VA, he or she cannot be acting within the scope of such employment while providing hospital care or medical services through the Program. Many of VA's health care providers are also appointed to other institutions, so if these health care providers are furnishing care under this Program, they must be doing so on non-Department time and using non-VA resources. The Act specifically envisions that care under the Program is provided by non-VA resources, as demonstrated by section 101(a)(3) of the Act, which requires VA to coordinate through the Non-VA Care Coordination Program the furnishing of care and services under this Program. Furthermore, non-VA care is a general term applied throughout VA to refer to any care furnished by a non-VA entity or health care provider under any authority or agreement. The title of section 101 of the Act, ''Expanded availability of hospital care and medical services for veterans through use of agreements with non-Department of Veterans Affairs entities,'' also clearly demonstrates Congress's intent that any entity or provider that is a VA resource should not be eligible to participate in the Program.

Under § 17.1530(b), an entity or provider must enter into an agreement with VA to provide non-VA hospital care or medical services under the Program. This requirement is consistent with section 101(a)(1)(A) of the Act. This section of the Act also authorizes VA to use agreements reached before the enactment of the Act, so long as such agreement is with an eligible entity or provider as defined in section 101(a)(1)(B) of the Act. Agreements may be formed by contract, intergovernmental agreement, or a provider agreement, consistent with section 101(d)(1)(B) of the Act. Each form of agreement must be executed by a duly authorized Department official to ensure that Federal resources are being committed by a person with the authority to do so. As an operational matter, VA will, to the maximum extent practicable and consistent with the requirements of section 101, use existing sharing agreements, existing contracts, and other processes available at VA medical facilities prior to using provider agreements under this section. This is consistent with the requirements of section 101(d)(1)(A), as modified by section 409 of Public Law 113–175.

Paragraph (c) of § 17.1530 defines whether an entity or provider is accessible to a veteran. Under section 101(a)(2) of the Act, a veteran who is eligible for the Program based on being unable to schedule an appointment within the wait-time goals of the Veterans Health Administration can only select an entity or provider that is accessible to the veteran. The broad intent of the Act is to ensure that veterans are able to be seen quickly and close to their home. The Act did not contemplate, for example, that a veteran living in New York would have his or her care in California and travel paid for by VA. Under the Act, this accessibility requirement technically only applies to veterans who are eligible based on being unable to be seen within the wait-time goals of the Veterans Health Administration. However, we believe the same standard should apply when any eligible veteran elects to receive non-VA care under the Program because it would be unfair to impose an accessibility requirement to limit the non-VA entities and providers available to some veterans but not others. Also, in those situations when a veteran does not select a provider, it would be inconsistent with the purpose of the Act if VA were able to select a non-VA provider who was inaccessible to veterans whose basis for eligibility is their residence. The factors identified in § 17.1530(c)(1)–(3) are intended to ensure that, as often as possible, veterans are able to access the care they need from an entity or provider that can see them quickly and that is at least as close as the nearest VA medical facility.

VA will consider several factors when determining whether an entity or provider is accessible. Under § 17.1530(c)(1), VA will consider the length of time an eligible veteran would have to wait to receive hospital care or medical services. One of the principal issues the Act was intended to address was extended wait times for hospital care and medical services in VA facilities. Senate Veterans' Affairs Committee Chairman Sanders explained the purpose of the Program shortly before the Senate passed an early version of this bill by saying, ''this legislation says to veterans that if there are long wait times, if they cannot get into a facility in a reasonable time, they can go out outside of . . . VA.'' See 160 Cong. Rec. S3591 (June 11, 2014). By considering the length of time a veteran would have to wait to receive hospital care or medical services from a non-VA entity or provider, VA can ensure that veterans receive care as quickly as possible. If a veteran selects a provider who cannot see the veteran for several months, VA would probably determine that provider was inaccessible. Alternatively, under this standard, there may be several eligible entities or providers who could provide care more quickly than VA could, and in such a situation, in those instances when an eligible veteran does not specify a particular eligible entity or provider, VA could select the eligible entity or provider that is able to schedule the earliest appointment for the eligible veteran.

Under § 17.1530(c)(2), VA will consider the qualifications of the entity or provider to furnish the hospital care or medical services the veteran requires. If an entity or provider does not have the expertise or equipment necessary to provide the required care or services, the needed care is not accessible from that provider, and VA will not authorize a patient to receive hospital care or medical services from that entity or provider. This will ensure that veterans have access to, and can receive, the care they need and that appropriated resources are spent only for services that actually can be delivered.

Under § 17.1530(c)(3), VA will consider the distance between the eligible veteran's residence and the entity or provider. Three of the four bases for eligibility under the Program focus on the residence of the veteran, and therefore we believe that travel distance was a clear concern and focus of the Act. If a veteran has to travel long distances to receive care, then these non-VA providers may be no more accessible than a VA medical facility that is more than 40 miles away from the veteran's residence.

VA will consider these factors together. Sometimes, there may be several eligible entities or providers that could deliver care close to the veteran's residence, and in such a scenario, distance likely will not matter. In other situations, there may only be one provider near the veteran's residence, but this provider either has extended wait times or lacks the expertise or equipment to provide the necessary care. VA will need to balance these competing interests and the preference of the veteran to determine whether or not an entity or provider is accessible. We will also make accessibility determinations on a case-by-case basis, considering each veteran's specific needs and ability to travel, as well as changes in the status of a non-VA entity or provider. For example, VA might find a health care provider inaccessible to a veteran in one month because the provider cannot see new patients in a timely manner or because the provider lacks the qualifications to treat a particular condition. But the following month, VA might find that same health care provider accessible to the same veteran because the provider's wait time has decreased or the provider has gained expertise through a newly hired health care provider.

Under § 17.1530(d), a non-VA provider must maintain at least the same or similar credentials and licenses as required by VA of its own providers. This requirement is codified in section 101(i)(1) of the Act, which also provides further support for the qualification standard in paragraph (c)(2) of this section. The agreement VA reaches with the non-VA entity or provider will clarify the requirement referenced in § 17.1530(d). These requirements will be the same or similar to the requirements included in VA policy and are also available through Veterans Health Administration (VHA) Handbook 1100.19 and VHA Directive 2012–030, available online at: *http://www.va.gov/vhapublications/.* Non-VA health care entities or providers must submit verification of this information to VA at least once per 12-month period to continue to remain eligible under this Program. This requirement is consistent with section 101(i)(2) of the Act.

For purposes of the Program, qualifications of non-VA providers will be set forth in the terms of the agreement with VA, but, in accordance with the Act, those terms must specify requirements that are ''at least the same or similar credentials and licenses'' as those required of VA providers. Sec. 101(i)(1), Public Law 113–146, 128 Stat. 1754. We also note that to the extent there may be concerns about the qualifications of a particular provider, section 101(a)(1)(B) of the Act requires that eligible entities and providers of non-VA care must either be Federal providers themselves (the Department of Defense or the Indian Health Service), a Federally-qualified health center, or be a participating provider in the Medicare program. Accordingly, these non-VA entities and providers have already met quality standards established in Federal law.

Entities are not required by the Act to maintain the same or similar credentials and licenses as VA providers because entities are not direct health care providers. Any entities that are eligible to provide care through the Program must ensure that any of their providers furnishing care and services through the Program meet these standards. If an eligible entity has more than one provider furnishing hospital care or medical services under this Program, the entity may submit the information required by paragraph (d) of this section on behalf of its providers. This will reduce the administrative responsibilities of each provider and VA by allowing for a consolidated submission of information.

Although not addressed in the regulation, eligible entities and providers furnishing hospital care and medical services to eligible veterans through the Program, to the extent possible, should submit medical records back to VA in an electronic format. This will ensure that the veteran's medical record is as complete as possible to provide quality care in a timely manner. The agreements VA reaches with eligible entities and providers will clarify this requirement.

Section 17.1535 Payment Rates and Methodologies

Section 17.1535 addresses payment rates and payment methodologies.

Section 17.1535(a) addresses payment rates. This paragraph states that rates will be negotiated and set forth in an agreement between VA and an eligible entity or provider. This is consistent with sections 101(d)(1)(A) and (d)(2)(A) of the Act.

Section 17.1535(a)(1) establishes the default payment rule that reimbursement rates under the Program will not exceed the applicable Medicare rate under Title XVIII of the Social Security Act. This limitation is established in section 101(d)(2)(B)(i) of the Act.

Section 17.1535(a)(2) states that VA may pay a rate higher than the default Medicare rate to an eligible entity or provider in a highly rural area, so long as such rate is still determined by VA to be fair and reasonable. A highly rural area is an area located in a county that has fewer than seven individuals residing in that county per square mile. This limited exception to the default Medicare rate is specifically contemplated, and narrowly circumscribed, by section 101(d)(2)(B)(ii) of the Act. The limitation that such rate be determined by VA to be fair and reasonable is necessary to ensure that VA is committing and using budgetary resources appropriately.

Section 17.1535(a)(3) addresses situations where there is no Medicare rate. As cited above, section 101(d)(2)(B) of the Act establishes that, except in highly rural areas, VA must pay the Medicare rate. However, there are certain types of care, such as obstetrics/gynecological and dental care, that are authorized by the VA medical benefits package in 38 CFR 17.38 but for which Medicare does not have established rates. The Act does not address the appropriate rate in such a situation. Because Congress did not address what rate can be paid when Medicare rates do not exist, we must fill the gap left by the law. See *Chevron U.S.A., Inc.* v *NRDC,* 467 U.S. 837, 842–843 (1984).

Under § 17.1535(a)(3), VA follows the process and methodology outlined in specified paragraphs of 38 CFR 17.55 and 17.56, to the extent these paragraphs are consistent with the requirements of section 101 of the Act, when there are no available rates as described in § 17.1535(a)(1). Sections 17.55 and 17.56 establish rates for payment for care provided to veterans by non-VA providers under different authorities than the Act. Paragraphs (g) and (k) of § 17.55 conflict with the Act and therefore are not applicable to payments made under the Program and would not be followed. Section 17.55(g), for example, states that payment by VA is payment in full, and the health care provider or agent may not impose any additional charge on a veteran or his or her health care insurer for any inpatient services for which payment is made by VA. This is inconsistent with sections 101(e) and 101(j) of the Act, which, as discussed above, specifically require billing to a health-care plan and copayments by a veteran for services rendered. Section 17.55(k) states that VA will not pay more than the amount determined under paragraphs (a)–(j) of § 17.55 or the negotiated amount, but § 17.1535(a) already establishes a rate ceiling for payments made under the Program. Sections 17.55(j) and 17.56(b) address payment for care furnished in Alaska, but section 101 of the Act does not permit us to follow these rates. If the

Act is further modified by Congress to provide flexibility to pay different rates, VA will comply with the new statutory requirements and will follow any methodologies in §§ 17.55 and 17.56 that are consistent with those requirements.

Section 17.1535(b) details payment responsibilities. Section 17.1535(b)(1) concerns payments for care related to a nonservice-connected disability. VA defines a nonservice-connected disability consistent with 38 CFR 3.1(l). This longstanding VA definition is consistent with section 101(e)(3)(C) of the Act, as well as the use of that term in other VA programs. We believe that using this definition will result in the same outcomes as the definition presented in the Act and is more familiar to the VA staff who will be administering the Program. VA has defined the term ''nonservice-connected'' at 38 CFR 3.1(l) to refer to a disability that was not incurred or aggravated in line of duty in the active military, naval, or air service. The Veterans Benefits Administration (VBA) is responsible for making determinations about whether a specific disability is service connected or not, and any disability that VBA has not identified as service connected is considered nonservice connected.

When a veteran is seeking care for a nonservice-connected disability through the Program, the health-care plan of the eligible veteran, if one exists, is primarily responsible for paying the eligible entity or provider for authorized hospital care or medical services that are furnished to an eligible veteran. This is consistent with the requirements of section 101(e)(3)(A) of the Act. The health-care plan is only responsible to the extent the care or services are covered by the health-care plan; this is again consistent with the language of section 101(e)(3)(A) of the Act. VA will be responsible for promptly paying only the amount that is not covered by the health-care plan, except VA cannot pay more than the rate determined under § 17.1535(a).

Section 101(e)(3)(B) of the Act defines when VA is secondarily responsible for care. The Act states that the eligible entity or provider is responsible for seeking reimbursement for the cost of furnishing hospital care or medical services from the health-care plan of the veteran, if applicable, and VA is responsible for only paying for the VA-authorized service to the extent not covered by such health-care plan. Under section 101(d)(2)(C) of the Act, an eligible entity or provider cannot collect more than the negotiated rate for the furnishing of care or services. If a veteran is required to make a VA copayment under section 101(j) of the Act and § 17.1520(b) of this regulation, the copayment will be applied to the rate established by § 17.1535(a). This will, in turn, reduce VA's ultimate liability.

Paragraph (b)(2) of this section provides that if hospital care or medical services are being furnished for a service-connected disability or pursuant to 38 U.S.C. 1710(e), 1720D, or 1720E, VA is solely responsible for paying the eligible entity or provider for such hospital care or medical services. VA has defined the term ''service-connected'' at 38 CFR 3.1(k) to mean, with respect to a disability, that such disability was incurred or aggravated in line of duty in the active military, naval, or air service. VA only has authority to recover or collect reasonable charges from a health-care plan when the care is being furnished for a nonservice-connected disability, so VA cannot collect such charges when service-connected care is involved. 38 U.S.C. 1729. The Act is silent in terms of collecting payment for service-connected care, so VA believes its existing authorities should apply here. The three additional authorities cited, 38 U.S.C. 1710(e), 1720D, and 1720E, are what VA refers to as special authorities, which require VA to furnish care based on certain conditions or exposures associated with military service. Excluding hospital care and medical services furnished under these authorities from liability by health-care plans is consistent with VA's past practice and with the intent and language of section 101(e)(3) of the Act. VA is developing a separate rulemaking that would specifically restrict the ability of VA to collect charges from health-care plans for care provided under these special authorities. Both that proposed rulemaking and this rulemaking are consistent with current practice.

Paragraph (c) of this section states that VA will only pay for hospital care or medical services authorized by VA. Accordingly, if in the course of providing authorized care or services under the Program, the eligible entity or provider determines that additional hospital care or medical services are necessary beyond what VA has authorized, the eligible entity or provider must contact VA for authorization prior to furnishing such care or services, in order for such care and services to be paid for by VA under the Program. Section 101(h) of the Act requires that, at the election of the veteran, VA must ensure that a veteran receives such hospital care or medical services through the completion of the episode of care, including all specialty and ancillary services deemed necessary as part of the recommended treatment. We believe that the language ''deemed necessary'' authorizes VA to make such determinations. This belief is supported by the Conference Report of the final bill, which stated, ''When coordinating care for eligible veterans through the Non-VA Care Coordination program, the Department should attempt to ensure when an appointment is authorized, the eligible veteran receives care within an appropriate time period, as defined by medical necessity as determined by the referring physician, or a mandatory time period established by the Secretary when the request for care is not initiated by a physician.'' H.R. Rpt. 113–564, p. 55, (emphasis added). In this context, the referring physician would be a VA health care provider. Furthermore, for non-VA care authorized under other statutes, VA must periodically review the necessity for continuing such care. 38 U.S.C. 1703(b). We interpret the language in section 101(h) of the Act to impose a similar obligation to ensure that VA has not entered into an open-ended commitment. VA will craft authorizations for non-VA care to ensure that veterans can receive the episode of care they need, including specialty and ancillary service, from eligible entities and providers. While some episodes of care may only involve a single visit, such as a specific procedure or test, others may involve multiple visits. VA will authorize only the care that it deems necessary as part of the treatment plan; if a non-VA health care provider believes that additional services are needed beyond 60 days or outside the scope of the initial course of treatment that was authorized, the health care provider must contact VA prior to administering such care to ensure that this care is authorized and therefore will be paid for by VA. These provisions are included so that veterans are not subjected to unapproved procedures and tests, and so that appropriated resources are not used for unapproved care or services.

Also, there must be an actual encounter with a health care provider, who is either an employee of an entity in an agreement with VA or who is furnishing care through an agreement the health care provider has entered into with VA, and such encounter must occur after an election is made by an eligible veteran. The encounter may be virtual through use of telehealth or other technologies, but the health care provider must furnish hospital care or medical services during the

appointment. This will ensure that VA only pays for hospital care or medical services that were actually furnished, and is consistent with the Act's requirement in section 101(m) that the Department does not pay for care or services that were not furnished to an eligible veteran.

Section 17.1540 Claims Processing System

Section 17.1540 provides general requirements for a VA claims processing system. This is required by section 101(k) of the Act. Paragraph (a) of this section establishes the claims processing system within the Chief Business Office of the Veterans Health Administration. This is required by section 101(k)(3) of the Act. The system will process and pay bills or claims for authorized hospital care and medical services furnished to veterans through the Program, as required by section 101(k)(1).

Paragraph (b) of this section establishes responsibility for overseeing the system with the Chief Business Office of the Veterans Health Administration. Section 101(k)(3) requires this assignment of authority.

Paragraph (c) of this section states that the system will receive requests for payment from eligible entities and providers for hospital care or medical services furnished to eligible veteran, and that the system will provide accurate and timely payments for claims received under the Program. This is required by section 101(k) and section 105 of the Act.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under 5 U.S.C. 553(b)(B) and (d)(3) to dispense with the opportunity for advance notice and opportunity for public comment and good cause to publish this rule with an immediate effective date. Section 101(n) of the Act requires publication of an interim final rule no later than November 5, 2014, the date that is 90 days after the date of the enactment of the law. We interpret this mandate to mean that, as a matter of law, it is impracticable and contrary to law and the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date.

VA is making the rule effective for certain veterans prior to the usual 30 day delay for an interim final rule to allow VA to begin furnishing hospital care and medical services immediately to certain eligible veterans. Delaying implementation could result in delayed health care for these veterans, which could have unpredictable negative health effects.

For the above reasons, the Secretary issues this rule as an interim final rule. However, VA will consider and address comments that are received within 120 days of the date this interim final rule is published in the **Federal Register**.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this interim final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This interim final rule includes a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking to OMB for review.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Sections 17.1510(d), 17.1515, and 17.1530 contain a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). If OMB does not approve the collection of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this interim final rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through *www.Regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AP24—Expanded Access to Non-VA Care through the Veterans Choice Program.''

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections 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.

The amendments to title 38 CFR part 17 contain collections of information under the Paperwork Reduction Act of 1995 for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

Title: Election to Receive Authorized Non-VA Care and Selection of Provider for the Veterans Choice Program.

Summary of collection of information: Section 17.1515 requires eligible veterans to notify VA whether the veteran elects to receive authorized non-VA care through the Veterans Choice Program, be placed on an electronic waiting list, or be scheduled for an appointment with a VA health care provider. Section 17.1515(b)(1) also allows eligible veterans to specify a particular non-VA entity or health care provider, if that entity or provider meets certain requirements.

Description of the need for information and proposed use of information: The information is required by the Act. Section 101(c) of Public Law 113–146 requires an eligible veteran to make an election to receive authorized non-VA care through the Veterans Choice Program, be placed on an electronic waiting list, or be scheduled for an appointment with a VA health care provider. Section 101(a)(2) authorizes certain eligible veterans to select a non-VA health care provider, and through regulation at § 17.1515(b), all eligible veterans may

select a non-VA health care provider that is eligible under § 17.1530. This information is necessary because VA must know what the veteran's choice is and whom the veteran would like to see for an appointment.

Description of likely respondents: Eligible veterans seeking authorization to receive non-VA care through the Veterans Choice Program.

Estimated number of respondents per year: 440,794 eligible persons.

Estimated frequency of responses per year: 12.64 times per year.

Estimated average burden per response: 2 minutes.

Estimated total annual reporting and recordkeeping burden: 185,721 hours.

Title: Health-Care Plan Information for the Veterans Choice Program.

Summary of collection of information: Section 17.1510(d) requires eligible veterans to submit to VA information about their health-care plan to participate in the Veterans Choice Program.

Description of the need for information and proposed use of information: The information is required by the Act. Section 101(e)(1) of Public Law 113–146 requires an eligible veteran to provide to the Secretary information on any health-care plan under which the eligible veteran is covered. This information is necessary because the veteran's other health-care plan is primarily responsible for paying for hospital care or medical services furnished through the Veterans Choice Program for a nonservice-connected disability.

Description of likely respondents: Eligible veterans seeking authorization to receive non-VA care through the Veterans Choice Program.

Estimated number of respondents per year: 440,794 eligible persons.

Estimated frequency of responses per year: 1.2 times per year.

Estimated average burden per response: 10 minutes.

Estimated total annual reporting and recordkeeping burden: 88,159 hours.

Title: Submission of Medical Record Information under the Veterans Choice Program.

Summary of collection of information: Participating eligible entities and providers are required to submit a copy of any medical record related to hospital care or medical services furnished under this Program to an eligible veteran.

Description of the need for information and proposed use of information: The information is required by the Act. Section 101(l) of Public Law 113–146, as amended by section 409 of Public Law 113–175, requires VA to ensure that any health care provider that furnishes care or services under the Program to an eligible veteran submits to VA a copy of any medical record related to the care or services that were provided. This is necessary to ensure continuity of care for the health and well-being of the veteran.

Description of likely respondents: Eligible entities and health care providers furnishing hospital care or medical services to eligible veterans through the Veterans Choice Program.

Estimated number of respondents per year: 187,000 eligible persons.

Estimated frequency of responses per year: 29.80 times per year.

Estimated average burden per response: 5 minutes.

Estimated total annual reporting and recordkeeping burden: 464,428 hours.

Title: Submission of Information on Credentials and Licenses by Eligible Entities or Providers.

Summary of collection of information: Section 17.1530 requires eligible entities and providers to submit verification that the entity or provider maintains at least the same or similar credentials and licenses as those required of VA's health care providers, as determined by the Secretary.

Description of the need for information and proposed use of information: The information is required by the Act. Section 101(i) of Public Law 113–146 requires non-VA entities or providers to maintain the same or similar credentials and licenses as those required of health care providers of the Department, as determined by the Secretary, and to submit not less than once per year verification of such licenses and credentials maintained by the health care provider. Under the interim final rule, an eligible entity may submit this information on behalf of its providers. This information is necessary to ensure that non-VA entities and providers who are furnishing hospital care and medical services to eligible veterans are meeting the same quality standards as VA health care providers.

Description of likely respondents: Eligible entities or providers furnishing hospital care and medical services through the Veterans Choice Program.

Estimated number of respondents per year: 187,000 eligible persons.

Estimated frequency of responses per year: 1 time per year.

Estimated average burden per response: 5 minutes.

Estimated total annual reporting and recordkeeping burden: 15,583 hours.

VA is also developing a survey to understand veteran satisfaction with receipt of care under the Veterans Choice Program. The information is required by the Act. Section 101(q)(2)(D) of Public Law 113–146 requires VA to report to Congress the results of a survey of eligible veterans who have received care or services under this Program on the satisfaction of such eligible veterans with the care or services they received. This information is necessary because VA must report this information to Congress, and this feedback will help VA better understand whether veterans like the Program. A separate notice will be published in the **Federal Register** providing more information about the planned veteran satisfaction survey.

Executive Orders 12866 and 13563

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

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined that this is an economically significant regulatory action under Executive Order 12866. VA's regulatory impact analysis can be found as a supporting document at *http://*

www.regulations.gov, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its regulatory impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

Congressional Review Act

This regulatory action is a major rule under the Congressional Review Act, 5 U.S.C. 801–08, because it may result in an annual effect on the economy of $100 million or more. Although this regulatory action constitutes a major rule within the meaning of the Congressional Review Act, 5 U.S.C. 804(2), it is not subject to the 60-day delay in effective date applicable to major rules under 5 U.S.C. 801(a)(3) because the Secretary finds that good cause exists under 5 U.S.C. 808(2) to make this regulatory action effective on the date of publication, consistent with the reasons given for the publication of this interim final rule. Congress directed VA to publish an interim final rule within 90 days of the date of enactment of the law, and further delay in expanding access to non-VA care for eligible veterans could result in the deterioration of their health. Accordingly, the Secretary finds that additional advance notice and public procedure thereon are impractical, unnecessary, and contrary to the public interest. In accordance with 5 U.S.C. 801(a)(1), VA will submit to the Comptroller General and to Congress a copy of this regulatory action and VA's Regulatory Impact Analysis.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This interim final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This interim final rule will not have a significant economic impact on participating eligible entities and providers who enter into agreements with VA. To the extent there is any such impact, it will result in increased business and revenue for them. We also do not believe there will be a significant economic impact on insurance companies, as claims will only be submitted for care that will otherwise have been received whether such care was authorized under this Program or not. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are as follows: 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on October 30, 2014, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: October 31, 2014.

William F. Russo,

Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.

For the reasons set out in the preamble, VA amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.108 by:
■ a. Revising paragraph (b)(1).
■ b. Adding paragraph (b)(4).
■ c. Revising paragraph (c)(1).
■ d. Adding paragraph (c)(4).
■ e. Revising the authority citation at the end of the section.

The revisions and additions read as follows:

§ 17.108 Copayments for inpatient hospital care and outpatient medical care.

* * * * *

(b) *Copayments for inpatient hospital care.* (1) Except as provided in paragraphs (d) or (e) of this section, a veteran, as a condition of receiving inpatient hospital care provided by VA (provided either directly by VA or obtained by VA by contract, provider agreement, or sharing agreement), must agree to pay VA (and is obligated to pay VA) the applicable copayment, as set forth in paragraph (b)(2), (b)(3), or (b)(4) of this section.

* * * * *

(4) For inpatient hospital care furnished through the Veterans Choice Program under § 17.1500 through 17.1540, the copayment amount at the time of furnishing such care or services by a non-VA entity or provider is $0. VA will determine and assess the veteran's copayment amount at the end of the billing process, but at no time will a veteran's copayment be more than the amount identified in paragraphs (b)(2) or (b)(3) of this section.

* * * * *

(c) *Copayments for outpatient medical care.* (1) Except as provided in paragraphs (d), (e), or (f) of this section, a veteran, as a condition for receiving outpatient medical care provided by VA (provided either directly by VA or obtained by VA by contract, provider agreement, or sharing agreement), must agree to pay VA (and is obligated to pay VA) a copayment as set forth in paragraph (c)(2) or (c)(4) of this section.

* * * * *

(4) For outpatient medical care furnished through the Veterans Choice

Program under § 17.1500 through 17.1540, the copayment amount at the time of furnishing such care or services by a non-VA entity or provider is $0. VA will determine and assess the veteran's copayment amount at the end of the billing process, but at no time will a veteran's copayment be more than the amount identified in paragraph (c)(2) of this section.

* * * * *

(Authority: 38 U.S.C. 501, 1710, 1730A, Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

■ 3. Amend § 17.110 by:
■ a. Adding paragraph (b)(4).
■ b. Revising the authority citation at the end of the section.

The revisions read as follows:

§ 17.110 Copayments for medications.

* * * * *

(b) * * *

(4) For medications furnished through the Veterans Choice Program under § 17.1500 through 17.1540, the copayment amount at the time the veteran fills the prescription is $0. VA will determine and assess the veteran's copayment amount at the end of the billing process, but at no time will a veteran's copayment be more than the amount identified in paragraphs (b)(1)(i) through (b)(1)(iii) of this section.

* * * * *

(Authority: 38 U.S.C. 501, 1710, 1720D, 1722A, 1730A, Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

■ 4. Amend § 17.111 by:
■ a. Adding paragraph (b)(3).
■ b. Revising the authority citation at the end of the section.

The addition and revision read as follows:

§ 17.111 Copayments for extended care services.

* * * * *

(b) * * *

(3) For hospital care and medical services considered non-institutional care furnished through the Veterans Choice Program under § 17.1500 through 17.1540, the copayment amount at the time of furnishing such care or services by a non-VA entity or provider is $0. VA will determine and assess the veteran's copayment amount at the end of the billing process, but at no time will a veteran's copayment be more than the amount identified in paragraphs (b)(1) or (b)(2) of this section.

* * * * *

(Authority: 38 U.S.C. 101(28), 501, 1701(7), 1710, 1710B, 1720B, 1720D, 1722A, Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

■ 5. Add an undesignated center heading and §§ 17.1500 through 17.1540 to read as follows:

Expanded Access to Non-VA Care Through the Veterans Choice Program

Sec.
17.1500 Purpose and scope.
17.1505 Definitions.
17.1510 Eligible veterans.
17.1515 Authorizing non-VA care.
17.1520 Effect on other provisions.
17.1525 Start date for eligible veterans.
17.1530 Eligible entities and providers.
17.1535 Payment rates and methodologies.
17.1540 Claims processing system.

Expanded Access to Non-VA Care Through the Veterans Choice Program

§ 17.1500 Purpose and scope.

(a) *Purpose.* Sections 17.1500 through 17.1540 implement the Veterans Choice Program, authorized by section 101 of the Veterans Access, Choice, and Accountability Act of 2014.

(b) *Scope.* The Veterans Choice Program authorizes VA to furnish hospital care and medical services to eligible veterans, as defined in § 17.1510, through agreements with eligible entities or providers, as defined in § 17.1530.

(Authority: Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

§ 17.1505 Definitions.

For purposes of the Veterans Choice Program under §§ 17.1500 through 17.1540:

Appointment means an authorized and scheduled encounter with a health care provider for the delivery of hospital care or medical services. A visit to an emergency room or an unscheduled visit to a clinic is not an appointment.

Attempt to schedule means contact with a VA scheduler or VA health care provider in which a stated request by the veteran for an appointment is made.

Episode of care means a necessary course of treatment, including follow-up appointments and ancillary and specialty services, which lasts no longer than 60 days from the date of the first appointment with a non-VA health care provider.

Health-care plan means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement not administered by the Secretary of Veterans Affairs, under which health services for individuals are provided or the expenses of such services are paid; and does not include any such policy, contract, agreement, or similar arrangement pursuant to title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.) or chapter 55 of title 10, United States Code.

Residence means a legal residence or personal domicile, even if such residence is seasonal. A person may maintain more than one residence but may only have one residence at a time. If a veteran lives in more than one location during a year, the veteran's residence is the residence or domicile where the person is staying at the time the veteran wants to receive hospital care or medical services through the Program. A post office box or other non-residential point of delivery does not constitute a residence.

Schedule means identifying and confirming a date, time, location, and entity or health care provider for an appointment.

VA medical facility means a VA hospital, a VA community-based outpatient clinic, or a VA health care center. A Vet Center, or Readjustment Counseling Service Center, is not a VA medical facility.

Wait-time goals of the Veterans Health Administration means, unless changed by further notice in the **Federal Register**, a date not more than 30 days from either:

(1) The date that an appointment is deemed clinically appropriate by a VA health care provider. In the event a VA health care provider identifies a time range when care must be provided (e.g., within the next 2 months), VA will use the last clinically appropriate date for determining whether or not such care is timely.

(2) Or, if no such clinical determination has been made, the date that a veteran prefers to be seen for hospital care or medical services.

(Authority: Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

§ 17.1510 Eligible veterans.

A veteran must meet the eligibility criteria under both paragraphs (a) and (b) of this section to be eligible for care through the Veterans Choice Program. A veteran must also provide the information required by paragraphs (c) and (d) of this section.

(a) A veteran must:

(1) Be enrolled in the VA health care system under § 17.36 on or before August 1, 2014; or

(2) Be eligible for hospital care and medical services under 38 U.S.C. 1710(e)(1)(D) and be a veteran described in 38 U.S.C. 1710(e)(3).

(b) A veteran must also meet at least one of the following criteria:

(1) The veteran attempts, or has attempted, to schedule an appointment with a VA health care provider, but VA is unable to schedule an appointment for the veteran within the wait-time goals of the Veterans Health Administration.

(2) The veteran's residence is more than 40 miles from the VA medical

facility that is closest to the veteran's residence.

(3) The veteran's residence is both:

(i) In a state without a VA medical facility that provides hospital care, emergency medical services, and surgical care having a surgical complexity of standard (VA maintains a Web site with a list of the facilities that have been designated with at least a surgical complexity of standard. That Web site can be accessed here: *www.va.gov/health/surgery*); and

(ii) More than 20 miles from a medical facility described in paragraph (b)(3)(i) of this section.

(4) The veteran's residence is in a location, other than one in Guam, American Samoa, or the Republic of the Philippines, which is 40 miles or less from a VA medical facility and the veteran:

(i) Must travel by air, boat, or ferry to reach such a VA medical facility; or

(ii) Faces an unusual or excessive burden in traveling to such a VA medical facility based on the presence of a body of water (including moving water and still water) or a geologic formation that cannot be crossed by road.

(c) If the veteran changes his or her residence, the veteran must update VA about the change within 60 days.

(d) A veteran must provide to VA information on any health-care plan under which the veteran is covered prior to obtaining authorization for care under the Veterans Choice Program. If the veteran changes health-care plans, the veteran must update VA about the change within 60 days.

(e) For purposes of calculating the distance between a veteran's residence and the nearest VA medical facility under this section (except for purposes of calculating a driving route under paragraph (b)(4)(ii) of this section), VA will use the straight-line distance between the nearest VA medical facility and a veteran's residence.

(Authority: Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

(The information collection requirements have been submitted to the Office of Management and Budget and are pending OMB approval.)

§ 17.1515 Authorizing non-VA care.

(a) *Electing non-VA care.* A veteran eligible for the Veterans Choice Program under § 17.1510 may choose to schedule an appointment with a VA health care provider, be placed on an electronic waiting list for VA care, or have VA authorize the veteran to receive an episode of care for hospital care or medical services under 38 CFR 17.38 from an eligible entity or provider.

(b) *Selecting a non-VA provider.* An eligible veteran may specify a particular non-VA entity or health care provider, if that entity or health care provider meets the requirements of § 17.1530. If an eligible veteran does not specify a particular eligible entity or provider, VA will refer the veteran to a specific eligible entity or provider.

(Authority: Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

(The information collection requirements have been submitted to the Office of Management and Budget and are pending OMB approval.)

§ 17.1520 Effect on other provisions.

(a) *General.* In general, eligibility under the Veterans Choice Program does not affect a veteran's eligibility for hospital care or medical services under the medical benefits package, as defined in § 17.38, or other benefits addressed in this part. Notwithstanding any other provision of this part, VA will pay for and fill prescriptions written by eligible providers under § 17.1530 for eligible veterans under § 17.1510, including prescriptions for drugs, including over-the-counter drugs and medical and surgical supplies available under the VA national formulary system.

(b) *Copayments.* VA will be liable for any deductibles, cost-shares, or copayments required by an eligible veteran's health-care plan for hospital care and medical services furnished under this Program, to the extent that such reimbursement does not result in expenditures by VA for the furnished care or services in excess of the rate established under § 17.1535. Veterans are also liable for a VA copayment for care furnished under this Program, as required by §§ 17.108(b)(4), 17.108(c)(4), 17.110(b)(4), and 17.111(b)(3).

(c) *Beneficiary travel.* For veterans who are eligible for beneficiary travel benefits under part 70 of this chapter, VA will provide beneficiary travel benefits for travel to and from the location of the eligible entity or provider who furnishes hospital care or medical services for an authorized appointment under the Veterans Choice Program without regard to the limitations in § 70.30(b)(2) of this chapter.

(Authority: 38 U.S.C. 111; Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

§ 17.1525 Start date for eligible veterans.

(a) VA will begin furnishing hospital care and medical services under the Program authorized by 38 CFR 17.1500 through 17.1540 as follows:

(1) Beginning November 5, 2014, to Veterans eligible under § 17.1510(b)(2), (b)(3), or (b)(4).

(2) Beginning no later than December 5, 2014, to Veterans eligible under § 17.1510(b)(1).

(b) If the start date will be earlier than the date identified in paragraph (a)(2) of this section, the Secretary will notify the public of the start date by publishing a Notice in the **Federal Register.**

(Authority: Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

§ 17.1530 Eligible entities and providers.

(a) *General.* An entity or provider is eligible to deliver care under the Veterans Choice Program if, in accordance with paragraph (c) of this section, it is accessible to the veteran and is an entity or provider identified in section 101(a)(1)(B) of the Veterans Access, Choice, and Accountability Act of 2014 and is either:

(1) Not a part of, or an employee of, VA; or

(2) If the provider is an employee of VA, is not acting within the scope of such employment while providing hospital care or medical services through the Veterans Choice Program.

(b) *Agreement.* An entity or provider must enter into an agreement with VA to provide non-VA hospital care or medical services to eligible veterans through one of the following types of agreements: contracts, intergovernmental agreements, or provider agreements. Each form of agreement must be executed by a duly authorized Department official.

(c) *Accessibility.* An entity or provider may only furnish hospital care or medical services to an eligible veteran if the entity or provider is accessible to the eligible veteran. VA will determine accessibility by considering the following factors:

(1) The length of time the eligible veteran would have to wait to receive hospital care or medical services from the entity or provider;

(2) The qualifications of the entity or provider to furnish the hospital care or medical services to the eligible veteran; and

(3) The distance between the eligible veteran's residence and the entity or provider.

(d) *Requirements for health care providers.* To be eligible to furnish care or services under the Veterans Choice Program, a health care provider must maintain at least the same or similar credentials and licenses as those required of VA's health care providers, as determined by the Secretary. The agreement reached under paragraph (b) of this section will clarify these requirements. Eligible health care providers must submit verification of such licenses and credentials

maintained by the provider to VA at least once per 12-month period. Any entities that are eligible to provide care through the Program must ensure that any of their providers furnishing care and services through the Program meet these standards. An eligible entity may submit this information on behalf of its providers.

(Authority: Sec. 101, Pub. L. 113–146, 128 Stat. 1754)

(The information collection requirements have been submitted to the Office of Management and Budget and are pending OMB approval.)

§ 17.1535 Payment rates and methodologies.

(a) *Payment rates.* Payment rates will be negotiated and set forth in an agreement between the Secretary and an eligible entity or provider.

(1) Except as otherwise provided in this section, payment rates may not exceed the rates paid by the United States to a provider of services (as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)) or a supplier (as defined in section 1861(d) of such Act (42 U.S.C. 1395x(d)) under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for the same care or services. These rates are known as the ''Medicare Fee Schedule'' for VA purposes.

(2) For eligible entities or providers in highly rural areas, the Secretary may enter into an agreement that includes a rate greater than the rate defined paragraph (a)(1) of this section for hospital care or medical services, so long as such rate is still determined by VA to be fair and reasonable. The term ''highly rural area'' means an area located in a county that has fewer than seven individuals residing in that county per square mile.

(3) When there are no available rates as described in paragraph (a)(1) of this section, the Secretary shall, to the extent consistent with the Veterans Access, Choice, and Accountability Act of 2014, follow the process and methodology outlined in §§ 17.55 and 17.56 and pay the resulting rate.

(b) *Payment responsibilities.* Responsibility for payments will be as follows.

(1) For a nonservice-connected disability, as that term is defined at § 3.1(*l*) of this chapter, a health-care plan of an eligible veteran is primarily responsible, to the extent such care or services is covered by the health-care plan, for paying the eligible entity or provider for such hospital care or medical services as are authorized under §§ 17.1500 through 17.1540 and furnished to an eligible veteran. VA shall be responsible for promptly paying only for costs of the VA-authorized service not covered by such health-care plan, including a payment made by the veteran, except that such payment may not exceed the rate determined for such care or services pursuant to paragraph (a) of this section.

(2) For hospital care or medical services furnished for a service-connected disability, as that term is defined at § 3.1(k) of this chapter, or pursuant to 38 U.S.C. 1710(e), 1720D, or 1720E, VA is solely responsible for paying the eligible entity or provider for such hospital care or medical services as are authorized under §§ 17.1500 through 17.1540 and furnished to an eligible veteran.

(c) *Authorized care.* VA will only pay for an episode of care for hospital care or medical services authorized by VA. The eligible entity or provider must contact VA to receive authorization prior to providing any hospital care or medical services the eligible non-VA entity or provider believes are necessary that are not identified in the authorization VA submits to the eligible entity or provider. VA will only pay for the hospital care or medical services that are furnished by an eligible entity or provider. There must be an actual encounter with a health care provider, who is either an employee of an entity in an agreement with VA or who is furnishing care through an agreement the health care provider has entered into with VA, and such encounter must occur after an election is made by an eligible veteran.

(Authority: Secs. 101, 105, Pub. L. 113–146, 128 Stat. 1754)

§ 17.1540 Claims processing system.

(a) There is established within the Chief Business Office of the Veterans Health Administration a nationwide claims processing system for processing and paying bills or claims for authorized hospital care and medical services furnished to eligible veterans under §§ 17.1500 through 17.1540.

(b) The Chief Business Office is responsible for overseeing the implementation and maintenance of such system.

(c) The claims processing system will receive requests for payment from eligible entities and providers for hospital care or medical services furnished to eligible veterans. The claims processing system will provide accurate, timely payments for claims received in accordance with §§ 17.1500 through 17.1540.

(Authority: Secs. 101, 105, Pub. L. 113–146, 128 Stat. 1754)

[FR Doc. 2014–26316 Filed 11–4–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0243; A–1–FRL–9918–00–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Volatile Organic Compound Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving four State Implementation Plan (SIP) revisions submitted by the State of Maine. These revisions establish Reasonably Available Control Technology (RACT) for two categories of volatile organic compound (VOC) sources and revise two existing VOC RACT regulations previously approved into Maine's SIP. The intended effect of this action is to approve these requirements into the Maine SIP. This action is being taken under the Clean Air Act (CAA).

DATES: This rule is effective on December 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2014–0243. All documents in the docket are listed on the *www.regulations.gov* Web site. 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 through *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Copies of the documents relevant to this action are also available for public

inspection during normal business hours, by appointment at the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333–0017.

FOR FURTHER INFORMATION CONTACT: Anne K. McWilliams, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone (617) 918–1697, facsimile (617) 918–0697, email *mcwilliams.anne@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Final Action
III. Statutory and Executive Order Reviews

I. Background and Purpose

On August 8, 2014 (79 FR 46384), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Maine. In that action, EPA proposed approval of Maine's Chapter 159, Control of Volatile Organic Compounds from Adhesives and Sealants, and Chapter 154, Control of Volatile Organic Compounds from Flexible Package Printing, submitted to EPA as a SIP revision on June 20, 2014 and October 26, 2011, respectively. These regulations address RACT for the named VOC source categories consistent with the relevant Control Technique Guidelines (CTGs) issued by EPA.[1] In addition, EPA proposed approval of revisions to Maine's revised Chapter 111, Petroleum Liquid Storage Vapor Controls, and Chapter 112, Bulk Terminal Petroleum Liquid Transfer Requirements which further reduce VOC emissions from petroleum liquid storage tanks and bulk terminals, respectively. Maine's revised Chapters 111 and 112 were submitted to EPA as a SIP revision on October 13, 1999, and February 26, 1998, respectively.

A detailed discussion of Maine's VOC SIP revisions and EPA's rationale for proposing approval of these SIP revisions was provided in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving, and incorporating into the Maine SIP, Maine's Chapter 159, Control of Volatile Organic Compounds from Adhesives and Sealants, and Chapter 154, Control of Volatile Organic Compounds from Flexible Package Printing, as meeting RACT for the miscellaneous industrial adhesives and flexible package printing CTG categories, respectively. In addition, EPA is approving, and incorporating into the Maine SIP, Maine's revised Chapter 111, Petroleum Liquid Storage Vapor Controls, and revised Chapter 112, Bulk Terminal Petroleum Liquid Transfer Requirements, both of which are consistent with CAA requirements and with EPA guidance for reducing VOC emissions from petroleum liquid storage facilities and from bulk terminals, respectively.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

[1] EPA's CTGs are posted at *http://www.epa.gov/aiqulaity/ozonepollution/SIPToolkit/ctgs.html.*

requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 27, 2014.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart U—Maine

■ 2. In § 52.1020, the table in paragraph (c) entitled ''EPA-Approved Maine Regulations'' is amended by revising entries for Chapters 111 and 112 and adding entries in numerical order for Chapters 154 and 159 to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) *EPA approved regulations.*

EPA-APPROVED MAINE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date and citation [1]	Explanations
*	*	*	*	*
Chapter 111	Petroleum Liquid Storage Vapor Control	9/29/1999	11/5/2014 [Insert **Federal Register** citation].	
Chapter 112	Bulk Terminal Petroleum Liquid Transfer Requirements.	2/22/1998	11/5/2014 [Insert **Federal Register** citation].	
*	*	*	*	*
Chapter 154	Control of Volatile Organic Compounds from Flexible Package Printing.	7/20/2010	11/5/2014 [Insert **Federal Register** citation].	
*	*	*	*	*
Chapter 159	Control of Volatile Organic Compounds from Adhesives and Sealants.	6/2/2014	11/5/2014 [Insert **Federal Register** citation].	
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

[FR Doc. 2014–26174 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05–OAR–2011–0968; FRL–9918–78–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the September 17, 2014, direct final rule approving a revision to provisions in Title 326 of the Indiana Administrative Code, Article 4, Rule 1, Open Burning Rule.

DATES: The direct final rule published at 79 FR 55641 on September 17, 2014, is withdrawn effective November 5, 2014.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031 *hatten.charles@epa.gov.*

SUPPLEMENTARY INFORMATION: The State of Indiana submitted this revision as a modification to the State Implementation Plan for open burning on November 14, 2011. In the direct final rule, EPA stated that if adverse comments were submitted by October 17, 2014, the rule would be withdrawn and not take effect. On September 21, 2014, EPA received an adverse comment and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on September 17, 2014. EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Emissions Reporting, Incorporation by reference, Ozone, Volatile organic compounds.

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

Dated: October 24, 2014.

Susan Hedman,

Regional Administrator, Region 5.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR 52.770 published in the **Federal Register** on September 17, 2014 (79 FR 55641) on pages 55644–55645 is withdrawn effective November 5, 2014.

[FR Doc. 2014–26164 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2014–0733; FRL–9918–52–OSWER]

National Oil and Hazardous Substances Pollution Contingency Plan; Technical Amendment To Update Data Management System Nomenclature

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Effective January 31, 2014 the EPA Superfund program decommissioned the Comprehensive Environmental Response Compensation and Liability Act Information System (CERCLIS) and adopted a new, more comprehensive data management system. The new data management system, the Superfund Enterprise Management System (SEMS), serves as a more powerful, integrated platform. Consistent with this action, this direct final rule makes appropriate conforming terminological changes to our regulations. This direct final rule also adds a minor clarification to the description of the remedial preliminary assessment.

DATES: This rule is effective on January 5, 2015 without further notice, unless EPA receives adverse comment by December 5, 2014. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2014–0733, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: superfund.docket@epa.gov*
- U.S. Postal Mail: U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Superfund Docket, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–SFUND–2014–0733. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2014–0733. 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*

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, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Superfund Docket (Docket ID No. EPA–HQ–SFUND–2014–0733). This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Superfund Docket telephone number is (202) 566–0276. EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jennifer Hovis at (703) 603–8888 (*hovis.jennifer@epa.gov*), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460–0002, Mail Code 5202P.

SUPPLEMENTARY INFORMATION:

I. Why is EPA using a direct final rule?

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action related to internal agency operations and anticipate no adverse comment as this action merely makes nonsubstantive changes to reflect new data management system nomenclature and adds minor clarifying text to a description in the NCP that will make the regulations more accurate.

In the ''Proposed Rules'' section of today's **Federal Register**, we are also publishing a separate proposed rule reflecting the changes described above. If adverse comments are received on this direct final rule, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives significant adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all significant public comments in any subsequent final rule based on the proposed rule.

II. What should I consider as I prepare my comments for EPA?

A. *Submitting Confidential Business Information (CBI).* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2.

B. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by 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 (CFR) 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.

• Make sure to submit your comments by the comment period deadline identified.

• Comments are only being solicited on the NCP revisions updating the data system nomenclature changes from CERCLIS to SEMS and the addition of clarifying text to the remedial preliminary assessment description. Therefore, comments are not being requested on other unmodified sections of the NCP nor on EPA's internal operational decision to update Superfund's data management system, and such comments will not be considered if submitted.

III. Background

A. What is CERCLA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to releases or substantial threats of releases of hazardous substances into the environment or releases or substantial threats of releases into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare.

B. What is the National Contingency Plan?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases or substantial threats of releases of hazardous substances into the environment and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

C. How does Superfund track and manage its data?

The Superfund program maintains a comprehensive data management system that inventories and tracks releases of hazardous substances addressed or needing to be addressed. The Superfund data management system, SEMS, contains the official inventory of CERCLA sites and supports EPA's site planning, tracking and national program performance reporting functions. It includes site assessment, remedial, Federal facility and enforcement program data. Inclusion of a specific site or area in SEMS does not represent a determination of any party's liability, nor does it represent a finding that any response action is necessary.

D. Why did EPA change its Superfund data management system?

The new Superfund data management system, SEMS, integrates multiple legacy Superfund data collection, reporting and tracking systems, including CERCLIS, into a single system for one primary source of Superfund site activity data, records, and accomplishment documentation. The new Superfund data management system also consolidates the Superfund program's disparate technical assets into a national management system with a single architecture on an agency platform. The new system is adaptable to shifting programmatic priorities and changing operational needs, and can better address the growing demands of content management and data exchange.

E. What does this amendment do?

This direct final rule revises the Operational Abbreviations section (40 CFR 300.4(b)) and the Definitions section (40 CFR 300.5) of the NCP to reflect terminological changes necessary for consistency with EPA's transition from CERCLIS as the Superfund program's planning and tracking data management system to SEMS. This rule also amends the Remedial preliminary assessment description (40 CFR 420(b)) to clarify that the Preliminary Assessment (PA) is performed on only those sites that have been entered into the SEMS remedial assessment active inventory.

F. What is the basis for this amendment?

CERCLA's passage in 1980 launched the Superfund program that provided EPA the authority needed to respond to threats posed by the uncontrolled releases of hazardous substances into the environment. The fundamental purpose of the Superfund program is to address threats and protect human health and the environment from releases or potential releases of hazardous substances from abandoned or uncontrolled hazardous waste sites. To effectively implement the Superfund program, it is necessary to maintain a repository of planning and accomplishment data, including resource planning estimates and program targets and measures. The updated Superfund information system also meets the requirements of U.S. Code Title 44, § 3506 (a)(1)(A) which direct Federal agencies to be responsible for ''carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness . . .''.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. This action merely deletes an obsolete reference to a retired information system and adds minor clarifying text to a description in the NCP. This action does not impose any requirements on any entity, including small entities. Therefore, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), after considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not contain any unfunded mandates or significantly or uniquely affect small governments as described in Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). This action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999). Because this action 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 action 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). This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. The Congressional Review Act, 5 U.S.C. 801 et seq.,

generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Because this action does not contain legally binding requirements, it is not subject to the Congressional Review Act.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 28, 2014.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

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

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

§ 300.4 [Amended]

■ 2. Amend § 300.4, paragraph (b), by adding in alphabetical order the term ''SEMS—Superfund Enterprise Management System''.

■ 3. Amend § 300.5 by revising the definition ''CERCLIS'' and adding in alphabetical order the definition ''SEMS'' to read as follows:

§ 300.5 Definitions.

* * * * *

CERCLIS was the abbreviation for the CERCLA Information System. This system has been retired and has been replaced with SEMS, the Superfund Enterprise Management System.

* * * * *

SEMS is the abbreviation for the Superfund Enterprise Management System. SEMS is EPA's comprehensive data management system that inventories and tracks information about releases addressed or needing to be addressed by the CERCLA Superfund program. SEMS consolidates legacy systems including CERCLIS into a single integrated platform. SEMS contains information for potential and confirmed hazardous waste sites addressed under the Superfund remedial and removal programs. SEMS includes sites in the active site inventory and archived sites. The active site inventory includes sites on the NPL, and sites not on the NPL where site assessment, removal, remedial, enforcement, cost recovery, or oversight activities are being planned or conducted. Archived sites include non-NPL sites that were formerly in the active site inventory which have no further site assessment, removal, remedial, enforcement, cost recovery or oversight needed under the Federal Superfund program based on available information. New information may warrant return of an archive site to the active inventory. Inclusion of a specific site or area in SEMS does not represent a determination of any party's liability, nor does it represent a finding that any response action is necessary.''

* * * * *

■ 4. Amend § 300.420 by revising paragraph (b)(1) introductory text to read as follows:

§ 300.420 Remedial site evaluation.

* * * * *

(b) *Remedial preliminary assessment.* (1) The lead agency shall perform a remedial PA on all sites entered into the SEMS remedial assessment active inventory as defined in § 300.5 to:

* * * * *

[FR Doc. 2014–26160 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 217, 234, 237, and 252

RIN 0750–AI27

Defense Federal Acquisition Regulation Supplement: Clauses With Alternates—Special Contracting Methods, Major System Acquisition, and Service Contracting (DFARS Case 2014–D004)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise and update clauses and their prescriptions for special contracting methods, major system acquisition, and service contracting to create basic and alternate clauses structured in a manner to facilitate use of automated contract writing systems. The rule also includes the full text of each alternate, rather than only showing the paragraphs that differ from the basic clause.

DATES: Effective November 5, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Janetta Brewer, telephone 571–372–6104.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 30535 on May 28, 2014, to revise provisions and clauses with alternates and the associated prescriptions, in order to clarify usage and facilitate the use of automated contract writing systems. No respondents submitted comments in response to the proposed rule, and no changes were made from the proposed rule in the final rule.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and is summarized as follows:

The purpose of this case is to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to create unique prescriptions for the basic version and each alternate of DFARS parts 217, 234, and 237 solicitations provisions and clauses, and to include the full text of each clause alternate.

The use of unique prescriptions for the basic version and each alternate of DFARS solicitations provisions and clauses will facilitate use of automated contract writing systems. The current convention requires the prescription for the basic provision or clause to address all the possibilities covered by the

alternates, and then the prescription for each alternate addresses only what is different for the use of that particular alternate. This rule revises the prescriptions so that the basic solicitation provision or clause and each alternate is unique and stands on its own. The prescriptions are not revised in any way to change when they are applicable to offerors, contractors, or subcontractors.

Additionally, the inclusion of the full text of each provision or clause alternate aims to make the terms of a provision or clause alternate clearer to offerors, as well as to DoD contracting officers. Instead of the current convention for alternates to show only paragraphs changed from the basic version of the provision or clause, this rule proposes to include the full text of each version of the clause. This will assist in making the terms of the clause clearer, because all paragraph substitutions will have already been made. Inapplicable paragraphs from the basic version of the clause that are superseded by the alternate are not included in the solicitation or contract to prevent confusion.

According to the Federal Procurement Data System, in fiscal year 2012, DoD made approximately 270,000 contract awards (not including modification and orders) that exceeded the micro-purchase threshold, of which approximately 180,000 (67%) were awarded to small businesses. It is unknown how many of these contracts were awarded that included an alternate to a DFARS provision or clause. This rule may result in potential offerors, including small businesses, expending more time to become familiar with and to understand the new format of the clause alternates in full text contained in contracts issued by any DoD contracting activity. The rule also anticipates saving contractors time by making all paragraph substitutions from the basic version of the clause, and not requiring the contractors to read inapplicable paragraphs contained in the basic version of the clause where alternates are also included in the solicitations and contracts. The overall burden caused by this rule is expected to be negligible and will not be any greater on small businesses than it is on large businesses.

No comments were received in response to the initial regulatory flexibility analysis.

This rule does not add any new reporting or recordkeeping requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that will accomplish the objectives of the rule.

IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 217, 234, 237, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 217, 234, 237, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 217, 234, 237, and 252 continues to read as follows:

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

PART 217—SPECIAL CONTRACTING METHODS

■ 2. In section 217.208–70, revise paragraph (a) to read as follows:

217.208–70 Additional clauses.

(a) Use the basic or the alternate of the clause at 252.217–7000, Exercise of Option to Fulfill Foreign Military Sales Commitments, in solicitations and contracts when an option may be used for foreign military sales requirements. Do not use the basic or the alternate of this clause in contracts for establishment or replenishment of DoD inventories or stocks, or acquisitions made under DoD cooperative logistics support arrangements.

(1) Use the basic clause when the foreign military sales country is known at the time of solicitation or award.

(2) Use the alternate I clause when the foreign military sale country is not known at the time of solicitation or award.

* * * * *

PART 234—MAJOR SYSTEM ACQUISITION

■ 3. Revise section 234.7101 to read as follows:

234.7101 Solicitation provision and contract clause.

(a) Use the basic or the alternate of the provision at 252.234–7003, Notice of Cost and Software Data Reporting System, in any solicitation that includes the basic or the alternate of the clause at 252.234–7004, Cost and Software Data Reporting.

(1) Use the basic provision when the solicitation includes the clause at 252.234–7004, Cost and Software Data Reporting—Basic.

(2) Use the alternate I provision when the solicitation includes the clause at 252.234–7004, Cost and Software Data Reporting—Alternate I.

(b) Use the basic or the alternate of the clause at 252.234–7004, Cost and Software Data Reporting System, in solicitations that include major defense acquisition programs or major automated information system programs as follows:

(1) Use the basic clause in solicitations and contracts for major defense acquisition programs or major automated information system programs that exceed $50 million.

(2) Use the alternate I clause in solicitations and contracts for major defense acquisition programs or major automated information system programs with a value equal to or greater than $20 million, but less than or equal to $50 million, when so directed by the program manager with the approval of the OSD Deputy Director, Cost Assessment.

PART 237—SERVICE CONTRACTING

■ 4. In section 237.7003, revise paragraph (a) to read as follows:

237.7003 Solicitation provisions and contract clauses.

(a) Use the basic or the alternate of the provision at 252.237–7002, Award to Single Offeror, in solicitations and contracts for mortuary services.

(1) Use the basic provision in all sealed bid solicitations for mortuary services.

(2) Use the alternate I provision in all negotiated solicitations for mortuary services.

* * * * *

■ 5. In section 237.7101, revise paragraph (e) to read as follows:

237.7101 Solicitation provisions and contract clauses.

* * * * *

(e) Use the basic or an alternate of the clause at 252.237–7016, Delivery Tickets, in all solicitations and contracts for laundry and dry cleaning services.

(1) Use the basic clause when services are not to be provided on a bulk weight basis.

(2) Use the alternate I clause when services are for bag type laundry to be provided on a bulk weight basis.

(3) Use the alternate II clause when services are unsorted laundry to be provided on a bulk weight basis.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Amend section 252.217–7000 by—
■ a. Revising the introductory text, clause title, and date;
■ b. Amending paragraph (b) by removing ''(Insert name of country, or To Be Determined)'' and adding ''(Insert name of country)'' in its place; and
■ b. Revising Alternate I.

The revisions read as follows:

252.217–7000 Exercise of option to fulfill foreign military sales commitments.

As prescribed in 217.208–70(a), use one of the following clauses:

Basic. As prescribed in 217.208–70(a)(1), use the following clause:

EXERCISE OF OPTION TO FULFILL FOREIGN MILITARY SALES COMMITMENTS—BASIC (NOV 2014)

* * * * *

Alternate I. As prescribed in 217.208–70(a)(2), use the following clause, which uses a different paragraph (b) than paragraph (b) of the basic clause:

EXERCISE OF OPTION TO FULFILL FOREIGN MILITARY SALES COMMITMENTS—ALTERNATE I (NOV 2014)

(a) The Government may exercise the option(s) of this contract to fulfill foreign military sales commitments.

(b) On the date the option is exercised, the Government shall identify the foreign country for the purpose of negotiating any equitable adjustment attributable to foreign military sales. Failure to agree on an equitable adjustment shall be treated as a dispute under the Disputes clause of this contract.

End of clause

■ 7. Amend section 252.234–7003 by—
■ a. Revising the introductory text, provision title, and date;
■ b. In paragraph (b) introductory text removing ''offeror'' and adding ''Offeror'' in its place; and
■ c. Revising Alternate I.

The revisions read as follows:

252.234–7003 Notice of Cost and Software Data Reporting System.

As prescribed in 234.7101(a), use one of the following provisions:

Basic. As prescribed in 234.7101(a)(1), use the following provision:

NOTICE OF COST AND SOFTWARE DATA REPORTING SYSTEM—BASIC (NOV 2014)

* * * * *

Alternate I. As prescribed in 234.7101(a)(2), use the following provision, which uses a different paragraph (c) than the basic provision:

NOTICE OF COST AND SOFTWARE DATA REPORTING SYSTEM—ALTERNATE I (NOV 2014)

(a) This solicitation includes—

(1) The Government-approved cost and software data reporting (CSDR) plan for the contract, DD Form 2794; and

(2) The related Resource Distribution Table.

(b) As part of its proposal, the Offeror shall—

(1) Describe the process to be used to satisfy the requirements of the DoD 5000.04–M–1, CSDR Manual, and the Government-approved CSDR plan for the proposed contract;

(2) Demonstrate how contractor cost and data reporting (CCDR) will be based, to the maximum extent possible, upon actual cost transactions and not cost allocations;

(3) Demonstrate how the data from its accounting system will be mapped into the standard reporting categories required in the CCDR data item descriptions;

(4) Describe how recurring and nonrecurring costs will be segregated;

(5) Provide comments on the adequacy of the CSDR contract plan and related Resource Distribution Table; and

(6) Submit the DD Form 1921, Cost Data Summary Report, and DD Form 1921–1, Functional Cost-Hour Report, with its pricing proposal.

(c) CSDR reporting will be required for subcontractors for selected subcontracts identified in the CSDR contract plan as requiring such reporting. The offeror shall identify, by providing comments on the Resource Distribution Table, the subcontractors, or, if the subcontractors have not been selected, the subcontracted effort.

(End of provision)

■ 8. Amend section 252.234–7004 by—
■ a. Revising the introductory text, clause title, and date; and
■ b. Revising Alternate I.

The revisions read as follows:

252.234–7004 Cost and Software Data Reporting System.

As prescribed in 234.7101(b), use one of the following clauses:

Basic. As prescribed at 234.7101(b)(1), use the following clause:

COST AND SOFTWARE DATA REPORTING SYSTEM—BASIC (NOV 2014)

* * * * *

Alternate I. As prescribed in 234.7101(b)(2), use the following clause, which uses a different paragraph (b) than the basic clause:

COST AND SOFTWARE DATA REPORTING SYSTEM—ALTERNATE I (NOV 2014)

(a) In the performance of this contract, the Contractor shall use—

(1) A documented standard cost and software data reporting (CSDR) process that satisfies the guidelines contained in the DoD 5000.04–M–1, CSDR Manual;

(2) Management procedures that provide for generation of timely and reliable information for the contractor cost data reports (CCDRs) and software resources data reports (SRDRs) required by the CCDR and SRDR data items of this contract; and

(3) The Government-approved CSDR plan for this contract, DD Form 2794, and the related Resource Distribution Table as the basis for reporting in accordance with the required CSDR data item descriptions (DIDs).

(b) The Contractor shall require CSDR reporting from selected subcontractors identified in the CSDR contract plan as requiring such reporting. If the Contractor changes subcontractors or makes new awards for selected subcontract effort, the Contractor shall notify the Government.

(End of clause)

■ 9. Amend section 252.237–7002 by—
■ a. Revising the introductory text, provision title, and date; and
■ b. Revising Alternate I.

The revisions read as follows:

252.237–7002 Award to single offeror.

As prescribed in 237.7003(a), use one of the following provisions:

Basic. As prescribed in 237.7003(a)(1), use the following provision:

AWARD TO SINGLE OFFEROR—BASIC (NOV 2014)

* * * * *

Alternate I. As prescribed in 237.7003(a)(2), use the following provision, which uses a different paragraph (d) than the basic provision:

AWARD TO SINGLE OFFEROR—ALTERNATE I (NOV 2014)

(a) Award shall be made to a single offeror.

(b) Offerors shall include unit prices for each item. Failure to include unit prices for each item will be cause for rejection of the entire offer.

(c) The Government will evaluate offers on the basis of the estimated quantities shown.

(d) Award will be made to that responsive, responsible offeror whose total aggregate offer is in the best interest of the Government.

(End of provision)

■ 10. Amend section 252.237–7016 by—
■ a. Revising the introductory text, clause title, and date; and
■ b. Revising Alternates I and II.

252.237–7016 Delivery tickets.

As prescribed in 237.7101(e), use one of the following clauses:

Basic. As prescribed in 237.7101(e)(1), use the following clause:

DELIVERY TICKETS—BASIC (NOV 2014)

* * * * *

Alternate I. As prescribed in 237.7101(e)(2), use the following clause, which includes paragraphs (c), (d), and (e) not included in the basic clause:

DELIVERY TICKETS—ALTERNATE I (NOV 2014)

(a) The Contractor shall complete delivery tickets in the number of copies required and in the form approved by the Contracting Officer, when it receives the articles to be serviced.

(b) The Contractor shall include one copy of each delivery ticket with its invoice for payment.

(c) Before the Contractor picks up articles for service under this contract, the Contracting Officer will ensure that—

(1) Each bag contains only articles within a single bag type as specified in the schedule; and

(2) Each bag is weighed and the weight and bag type are identified on the bag.

(d) The Contractor shall, at time of pickup—

(1) Verify the weight and bag type and record them on the delivery ticket; and

(2) Provide the Contracting Officer, or representative, a copy of the delivery ticket.

(e) At the time of delivery, the Contractor shall record the weight and bag type of serviced laundry on the delivery ticket. The Contracting Officer will ensure that this weight and bag type are verified at time of delivery.

(End of clause)

Alternate II. As prescribed *in 237.7101*(e)(3), use the following clause, which includes paragraphs (c), (d), and (e) not included in the basic clause:

DELIVERY TICKETS—ALTERNATE II (NOV 2014)

(a) The Contractor shall complete delivery tickets in the number of copies required and in the form approved by the Contracting Officer, when it receives the articles to be serviced.

(b) The Contractor shall include one copy of each delivery ticket with its invoice for payment.

(c) Before the Contractor picks up articles for service under this contract, the Contracting Officer will ensure that each bag is weighed and that the weight is identified on the bag.

(d) The Contractor, at time of pickup, shall verify and record the weight on the delivery ticket and shall provide the Contracting Officer, or representative, a copy of the delivery ticket.

(e) At the time of delivery, the Contractor shall record the weight of serviced laundry on the delivery ticket. The Contracting Officer will ensure that this weight is verified at time of delivery.

(End of clause)

[FR Doc. 2014–26179 Filed 11–4–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket No. FWS–R9–MB–2012–0027; FF09M29000–145–FXMB1232090000]

RIN 1018–AY60

Migratory Bird Permits; Removal of Yellow-billed Magpie and Other Revisions to Depredation Order

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), change the regulations governing control of depredating blackbirds, cowbirds, grackles, crows, and magpies. The yellow-billed magpie (*Pica nuttalli*) is endemic to California and has suffered substantial population declines. It is a species of conservation concern. We remove the species from the depredation order. A depredation permit will be necessary to control the species. We also narrow the application of the regulation from protection of any wildlife to protection of species recognized by the Federal Government, a State, or a Tribe as an endangered, threatened, or candidate species, or a species of special concern. We add conditions for live trapping, which are new to the regulation. Finally, we refine the reporting requirement to gather data more useful in assessing actions under the order.

DATES: This rule is effective December 5, 2014.

FOR FURTHER INFORMATION CONTACT: George Allen, 703–358–1825.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Fish and Wildlife Service is the Federal agency delegated the primary responsibility for managing migratory birds. This delegation is authorized by the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Russian Federation (formerly the Soviet Union). We implement the provisions of the MBTA through regulations in parts 10, 13, 20, 21, and 22 of the Code of Federal Regulations (CFR). Regulations pertaining to migratory bird permits are at 50 CFR 21; subpart D of part 21 contains regulations for the control of depredating birds.

A depredation order allows the take of specific species of migratory birds for specific purposes without need for a depredation permit. The depredation order for blackbirds, cowbirds, grackles, crows, and magpies (50 CFR 21.43) allows take when individuals of an included species are found ''committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner that they are a health hazard or other nuisance.''

We established the depredation order for blackbirds and grackles in 1949 (14 FR 2446; May 11, 1949). The regulation specified that take of birds under the order was to protect agricultural crops and ornamental or shade trees. We added cowbirds to that depredation order in 1958 (23 FR 5481; July 18, 1958). In 1972, we added magpies, crows, and horned owls to the depredation order, and we expanded the order to cover depredations on livestock or wildlife or ''when [the birds included in the order are] concentrated in such numbers and manner as to constitute a health hazard or other nuisance'' (37 FR 9223; May 6, 1972). We removed horned owls from the order in 1973 (38 FR 15448; June 12, 1973), and we removed the tri-colored blackbird *(Agelaius tricolor)* in 1989 (54 FR 47524; November 15, 1989).

From 1989 until 2010, the depredation order at 50 CFR 21.43 pertained to ''yellow-headed, red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies.'' On December 8, 2008 (73 FR 74447), we proposed ''to make the list of species to which the depredation order applies more precise by listing each species that may be controlled under the order.'' We issued a final rule on December 2, 2010 (75 FR 75153), which became effective on January 3, 2011, that revised 50 CFR 21.43 to include four species of grackles; three species each of blackbirds, cowbirds, and crows; and two species of magpies, including the yellow-billed magpie.

II. Changes to the Depredation Order

On May 13, 2013, we published a proposed rule to further revise the depredation order (78 FR 27930), in which we proposed changes to the regulation as outlined below.

Removal of the Yellow-billed Magpie

The yellow-billed magpie (*Pica nuttalli*) is an endemic species of California. It is found ''primarily in the Central Valley, the southern Coast Ranges, and the foothills of the Sierra Nevada,'' and is an ''integral part of the oak savannah avifauna'' in California (Koenig and Reynolds, 2009).

Degradation of habitat is considered a threat to the species, though secondary poisoning may be a threat in some locations (Koenig and Reynolds, 2009).

The yellow-billed magpie is on the Service's list of Birds of Conservation Concern for the California/Nevada Region (USFWS, 2008). Recently, there have apparently been severe impacts of West Nile virus on the species (Crosbie *et al.* 2008; Ernest *et al.,* 2010). Our concern for this species leads us to remove it from the depredation order. Individuals and organizations needing to deal with depredating yellow-billed magpies can apply for a depredation permit under 50 CFR 21.41.

Wildlife Depredation

For wildlife protection by the public, we limit application of this depredation order, which currently covers protecting all wildlife, to only allow take without a permit for protection of: (1) a species recognized by the Federal Government as an endangered, threatened, or candidate species, in counties in which the species occurs, as shown in the Service's Environmental Conservation Online System (*http://ecos.fws.gov*); (2) species recognized by the Federal Government as endangered or threatened, in the species' designated critical habitat; and (3) species recognized by a State or Tribe as endangered, threatened, candidate, or of special concern on State or tribal lands. Species listed by the Federal Government as endangered or threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), are set forth at 50 CFR 17.11(h) (for animals) and 17.12(h) (for plants), and a list of Federal candidate species is available at *http://ecos.fws.gov/tess_public/pub/candidateSpecies.jsp.* Federal critical habitat designations are set forth at 50 CFR 17.95 for animals, 17.96 for plants, and 17.99 for plants in Hawaii.

For wildlife protection by Federal, State, and Tribal agencies, take for protection of a species recognized by the Federal Government, a State, or a Tribe as an endangered, threatened, candidate species, or a species of special concern is allowed anywhere in the United States.

For the public and Federal, State, and Tribal agencies, take to protect other species of wildlife will require a depredation permit (see 50 CFR 21.41).

Trapping Conditions

We add requirements regarding the use of traps to take birds listed in the depredation order. The regulations cover locating and checking traps, releasing nontarget birds, and using lure birds.

Reporting

Under the current regulations, we cannot assess impacts of this order on nontarget species. Therefore, we clarify that reporting of activities under this depredation order requires a summary of those activities and information about capture of nontarget species (see the Regulation Promulgation section, below).

Euthanasia

We allow three methods of euthanasia that are considered humane by the American Veterinary Medical Association (2013, *https://www.smashwords.com/books/view/292011* (see the Regulation Promulgation section, below).

III. Comments on the Proposed Rule

We received nine comments on the proposed rule. We respond to the issues raised in the comments on the proposed rule below. Similar issues are grouped for efficiency. We did not make significant changes from the proposed rule, but changes we made are noted in response to comments.

Comment (1): ''We oppose the removal of the yellow-billed magpie from the depredation order; retaining the yellow-billed magpie in the depredation order will preserve agricultural productivity. Crop and livestock damage from wildlife can result in significant losses to agricultural producers. In 2009, the U.S. Department of Agriculture's National Wildlife Research Center estimated economic impacts of annual vertebrate pests caused crop losses to be between $168 million and $504 million for a 10-county area in California. Further, according to the Internet Center for Wildlife Damage Management, a nonprofit center founded jointly by the Cornell University, University of Nebraska—Lincoln, Clemson University, and Utah State University, both black and yellow-billed magpies cause damage to crops and livestock. Magpies can cause substantial local damage to crops such as almonds, cherries, corn, walnuts, melons, grapes, peaches, wheat, figs, and milo. Magpies also pick at open wounds and scabs on livestock backs, which can become infected. Magpies are also known to peck the eyes of newborn and sick livestock. All of these damages contribute to the need for a depredation order for yellow-billed magpie.''

Our Response: We understand the issues raised by the commenter, but our mandate under the MBTA focuses on bird conservation. The yellow-billed magpie is on the Service's list of *Birds of Conservation Concern* for the California/Nevada Region (USFWS, 2008). Recently, there have apparently been severe impacts of West Nile virus on the species (Crosbie *et al.* 2008; Ernest *et al.,* 2010). Our concern for this species leads us to remove it from the depredation order.

Comment (2): Several commenters either agreed with our proposal or discussed bird species that were not a part of our proposal to revise the current depredation order. Specifically, the Pacific Flyway Council (PFC) agreed that removing the yellow-billed magpie from the depredation order is justified because this species is declining throughout its range. Another commenter stated that yellow-billed magpies are only present in the valleys and adjacent areas of central California, and while the commenter is not aware of any attempts at introduction to other regions, it does not seem that sufficiently similar habitats exist in other parts of the United States. The commenter, therefore, states that the yellow-billed magpie must be protected in its native range.

Our Response: We appreciate the commenters' support of our proposal. We continue to believe that removing the yellow-billed magpie from the depredation order is appropriate. We make this change in this final rule.

Comment (3): One commenter discussed the yellow-headed blackbird, Kern red-winged blackbird, and tricolored blackbird, noting that ''. . . the yellow-headed blackbird is a Bird Species of Special Concern in California due to a decline in breeding colonies throughout the State, the Kern red-winged blackbird is a Bird Species of Special Concern in California due to very limited distribution, and the tricolored blackbird (a Bird Species of Special Concern in California, a Service Focal Species, and a Service Bird of Conservation Concern) occurs in portions of California. The commenter noted that additional protection of these species might be warranted.

Our response: We did not change the rule to address these species, though the commenter was correct. We may revise this regulation to prohibit take of take of Kern-red-winged blackbirds if we determine that it is warranted. Take of tricolored blackbirds is not allowed under the regulation.

Comment (4): Black-billed magpies are absent from much of the yellow-billed magpie's range. Therefore, it may simplify the regulation and increase ease of compliance to simply remove all

magpies from the depredation order in the relevant counties of California.

Our Response: We considered taking the action that the commenter suggested, but unless we determine that take of black-billed magpies under the depredation order is excessive, we will continue to allow black-billed magpies to be taken to protect livestock, in particular.

Comment (5): The proposed rule's section on nonlethal control efforts could be clarified with an explanation of the documentation required regarding the manner in which nonlethal methods were attempted and deemed ineffective. Annual reports submitted under this depredation order should be required to include this information as well.

Our Response: In this final rule (see the Regulation Promulgation section, below), paragraph (b)(6) of the revised 50 CFR 21.43 specifies that nonlethal control actions must be attempted each calendar year before lethal take is conducted by private citizens. The annual report for activities undertaken under this order requires simple information on nonlethal control methods attempted.

Comment (6): One commenter stated that to ensure compliance, further clarification may be needed regarding how detailed the reporting needs to be in describing methods utilized to reduce the capture of nontargets. Another commenter stated that the proposed rule would require that a landowner attempt to use nonlethal control of migratory bird depredation, but it is unclear what constitutes an ''attempt.'' It is important to recognize that lethal control can frequently be a significant part of a deterrent program. Often, nonlethal control methods become ineffective, and without continued lethal control as a part of a vertebrate pest management program, nonlethal actions will not work. The proposed changes to the regulations are unclear whether or not lethal control methods could be ongoing.

Our Response: This final rule revises the regulations to allow lethal control by private individuals, with the condition that nonlethal control must be attempted each calendar year before lethal control is undertaken. If nonlethal control methods are ongoing, they need to be documented on the annual report, which does not need to be detailed. The reporting form provides space for descriptions of methods used, such as ''abatement raptors flown daily from 1 April through 31 May,'' or ''netting placed over livestock feed from 1 November through 30 April.'' We are adding examples of possible nonlethal control methods to 50 CFR 21.43(b)(6) (see the Regulation Promulgation section, below).

Comment (7): Agriculture should be allowed monetary compensation for crop or livestock damage or loss caused by wildlife that agricultural operators are unable to control through nonlethal attempts.

Our Response: The Service does not compensate for such losses.

Comment (8): The current depredation order allows for control of species if they are ''committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner that they are a health hazard or other nuisance.'' The proposal would narrow the agricultural conditions to the following: ''where they are seriously injurious to agricultural and horticultural crops or to livestock feed.'' The revised language removes the potential to prevent damage to agricultural productivity. This is significant, as it requires farmers to watch their crop being lost before they are legally allowed to take lethal action.

Our Response: In several places, we are adopting regulatory language that is slightly different from the language we proposed. Specifically, concerning agricultural circumstances, this final rule states that a person does not need a Federal permit to control the covered species if they are ''causing serious injuries to agricultural or horticultural crops or to livestock feed.'' A farmer need not ''watch their crop being lost'' before taking action. A farmer can attempt nonlethal controls before undertaking lethal controls. Farmers suffering losses are encouraged to consult with U. S. Department of Agriculture's (USDA's) Animal and Plant Health Inspection Service's (APHIS') Wildlife Services (WS) for expert advice on minimizing damage by migratory birds.

Comment (9): Farm Bureau is opposed to the additional information that would be required in the annual reporting requirements included in the proposal. This reporting requirement would lead to a requirement that farmers self-incriminate, if they accidentally take a nontarget species in violation of the MBTA.

Our Response: The reporting requirements proposed and in this final rule are the same as would be required of a depredation permittee. Intentional take of species not covered under the depredation order, or flagrant disregard of the prohibition on take of other species, would be grounds for prosecution. The Service compiles information on accidental take of other species to determine if particular species are at risk due to control actions taken under the depredation order.

Comment (10): Farm Bureau recognizes the importance of conserving at-risk species and recognizes that information on accidental losses of these species would be helpful in improving their conservation. However, the risk that the proposed reporting requirements place on California farmers could be significant and could create an onerous paperwork burden. In addition to providing species and timing information, agricultural producers would be forced to disclose personal information about themselves and their operations. Farm Bureau opposes incorporating personal information. To address reporting concerns, we suggest creating a reporting requirement that allows agricultural producers to work cooperatively with their county agriculture commissioners to gather such information and submit it in an aggregate fashion. Providing an aggregate report, without individual identifying information, would provide the necessary information to improve species conservation without jeopardizing California farmers.

Our Response: The information on the report form requires disclosure of limited information that often is publically available: name, address, telephone number, and email address. For private individuals, this information will not be disclosed to others. The information required on the report form will help the Service determine take of the species covered under the order, take of nontarget species, the locations of take, the methods of take, and the effectiveness of nonlethal control measures.

Comment (11): One commenter believes the increased reporting requirements are justified to allow the Service to receive quality data, and believes the benefit of increased data reporting outweighs the burden on permittees. APHIS WS states that in the proposed rule, the Service estimates it will take 30 minutes to comply with the annual reporting requirements, but if the Service expands the reporting requirements as proposed, the estimated time to comply would be at least 4 hours to collect the information throughout the year and summarize it in the required report. While APHIS WS already collects some of the data as part of its internal reporting requirements, program personnel would still have to pull the data from our internal Management Information System and provide it in the required format.

Our Response: We recognize that APHIS WS personnel may undertake much more trapping than many entities that might control depredation under the order. However, until we gather data on reporting times, we stand by our estimate of the average reporting time for all respondents.

Comment (12): APHIS WS recommends that the Service retain the existing provision in its regulations that allows for the control of certain species of depredating birds under the depredation order to protect wildlife in general, not just endangered and threatened species. APHIS WS believes that limiting use of the depredation order to protect only endangered and threatened species is unnecessarily restrictive. Much of APHIS WS' work under the order protects unlisted wildlife species and is part of a cooperative multi-agency approach with the goal of preventing ''candidate'' species from advancing to listed endangered and threatened species. Additional restrictive measures in permit processes would not serve that goal. If the Service finds the use of ''wildlife'' to be too broad, then APHIS WS would recommend also including species of special concern and State-listed species. The inclusion of wildlife species covered under State conservation efforts would provide for additional protections while still narrowing the scope of this provision.

Our Response: We concur with this suggestion. In this final rule, we allow take under the order to protect a species recognized by the Federal Government, a State, or a Tribe as an endangered, threatened, or candidate species, or a species of special concern.

Comment (13): One commenter stated that changing the language of the depredation order so that the order may be applied only for the protection of endangered and threatened wildlife species is too restrictive to meet the needs of some States. In some instances, this depredation order has been applied to protect nonlisted wildlife species, such as nesting waterfowl and pheasants. The commenter recommended that the application of the depredation order remain more widely inclusive of all wildlife. The Idaho Department of Fish and Game (IDFG) also did not support limiting the application of the depredation order to allow take without a permit only for protection of endangered or threatened species. Such action would place unnecessary restrictions on State wildlife management activities and increase the administrative burden on both the applicant and permitting authority. Requiring States or other entities to apply for a depredation permit for individual control actions involving the removal of abundant migratory bird species *(i.e.,* magpies and crows) with a long history of agricultural and wildlife impacts is inconsistent with the current Migratory Bird Program Strategic Plan for permitting: ''C–2: In cooperation with partners, develop and implement biologically sound permits, regulations, policies, and procedures to effectively manage and assess the take of migratory birds, while decreasing the administrative burden for permit applicants.'' Moreover, no population or harvest data for crows suggest that the take under the current hunting framework and depredation order has a population impact on this species that warrants further restrictions. Both crow and magpie populations are sustainable under the current depredation order authorization, and there is no need for further restrictions.

Our Response: In 1972, we added magpies, crows, and horned owls to the depredation order, and we expanded the order to cover depredations on livestock or wildlife or ''when [the birds included in the order are] concentrated in such numbers and manner as to constitute a health hazard or other nuisance'' (37 FR 9223; May 6, 1972). We do not believe it is appropriate to allow take of the covered species simply because they might prey on MBTA-listed species. Nor is it appropriate to allow them to be killed wherever they occur to protect an introduced species, even if it is important to game bird hunting. The key threshold issue is whether the listed species cause substantial depredation problems in numerous locations, not whether their populations are large and can sustain take. Further, IDFG has not reported any take of covered species since the reporting requirement was put in place. Depredation permits are available to State and Tribal wildlife management agencies if depredation by the species covered (or other MBTA species) is shown to be a problem. See also our response to *Comment (11),* above.

Comment (14): APHIS WS recommended that the Service allow for control work under the depredation order to take place beyond the borders of designated critical habitat for endangered and threatened species. Designated critical habitat may not provide an optimal or even practical location to effectively perform protective control, and many listed species do not have designated critical habitat. APHIS WS personnel often invest significant time in identifying daily patterns of targeted birds. This monitoring often helps APHIS WS personnel locate staging areas, roost sites, and landfills among other locations that are outside of the designated critical habitat but offer the most practical location to conduct control operations. Additionally, operating within designated critical habitat may be detrimental and unnecessarily disruptive to the protected species.

Our Response: We concur with the commenter, and have made changes to incorporate this idea. In this final rule, for wildlife protection by the public, we limit application of the depredation order to only allow take without a permit for protection of: (1) A species recognized by the Federal Government as an endangered, threatened, or candidate species, in counties in which the species occurs, as shown in the Service's Environmental Conservation Online System (*http://ecos.fws.gov*); (2) a species recognized by the Federal Government as an endangered or threatened species, in its designated critical habitat; and (3) species recognized by a State or Tribe as endangered, threatened, candidate, or of special concern on State or tribal lands. For wildlife protection by Federal, State, and Tribal agencies, take for protection of species recognized by the Federal Government, a State, or a Tribe as endangered, threatened, candidate, or of special concern is allowed anywhere in the United States.

Comment (15): Two commenters discussed the checking of traps in their comments. APHIS WS recommended maintaining the existing once-per-day trap check as adequate to ensure availability of food, water, and shade and to maintain the welfare of captured birds. Trap locations are selected and traps are designed with the welfare of the birds in mind. APHIS WS always provides protection from rain and direct sunlight. Furthermore, the capture of nontarget birds is rare because APHIS WS uses traps with wire mesh grids that provide large enough openings for most nontargets to escape. Daily checks allow for the release of any nontargets that might remain. Some APHIS WS State offices cover remote locations, and if a provision requiring more frequent trap checks were to be finalized, the wildlife specialists and biologists in these locations would have to use alternative methods because they would be unable to make more than one visit to the trap site per day. It is important to note that alternative methods may not be as discriminating as trapping. The PFC recommended that traps be checked a minimum of once per day, as proposed, to reduce nontarget take at trap sites,

unless other information indicates that more frequent checks of traps are warranted.

Our Response: This final rule requires that each trap must be checked at least once every day it is deployed. Therefore, a once-per-day trap check is adequate under this rule.

Comment (16): One commenter asked for clarification as to whether all injured and debilitated birds or just MBTA-protected, nontarget, injured and debilitated birds must be taken to wildlife rehabilitators. Additionally, some APHIS WS State Directors have pointed out that licensed wildlife rehabilitators may not be located within a practical distance in all States.

Our Response: In this final rule, we revised the language under *Trapping conditions* (see the Regulation Promulgation section, below) concerning injured or debilitated, nontarget birds to address both of these concerns. This rule states, ''If a federally permitted wildlife rehabilitator is within 1 hour or less of your capture efforts, you must send injured or debilitated, nontarget, federally protected migratory birds to the rehabilitator.'' Birds of target species need not be sent to a rehabilitator. For a nontarget species, if no rehabilitator is closer than 1 hour away, you may euthanize an injured or debilitated bird unless the species is federally listed as an endangered, threatened, or candidate species, in which case you must deliver it to a permitted rehabilitator and report the take to the nearest U.S. Fish and Wildlife Service Field Office or Special Agent. Paragraph (g) provides options for euthanasia.

Comment (17): The proposed rule states that methods of euthanasia would be limited to carbon monoxide or carbon dioxide inhalation, or by cervical dislocation performed by well-trained personnel who are regularly monitored to ensure proficiency. APHIS WS requests clarification that shooting and trapping remain authorized methods of take under the depredation order and that the listed euthanasia methods apply only to birds captured in traps.

Our Response: Shooting and trapping remain authorized methods of take under the depredation order. The order's provisions for euthanasia, which we have revised in this final rule, allow captured birds and wounded or injured birds of the covered species to be killed by carbon monoxide or carbon dioxide inhalation, or by cervical dislocation performed by well-trained personnel who are regularly monitored to ensure proficiency.

Comment (18): APHIS WS recommended that reporting requirements be confined to nontarget take details only. If the intent of the proposed rule is to gather needed information about nontarget capture and the effects of trapping activities on nontarget species, then the newly proposed reporting requirements should be limited only to those species. Based on the language in the proposed rule, it is not clear that the collection of information regarding all species controlled under the depredation order would have sufficient utility to warrant the additional time spent recording the data in the required FWS format.

Our Response: We disagree. It is important to know about nontarget take, but it is equally important for us to be able to compile information on the take of the species covered under the regulation. The annual report will require information on take of both target and nontarget species.

Comment (19): APHIS WS believes that the Global Positioning System (GPS) requirement in the proposed rule may be onerous to farmers and other nongovernmental entities. The expense of having to purchase a GPS device could be burdensome to some individuals. Also, there should be consideration given to the fact that some individuals may lack the training or knowledge to properly use such devices.

Our Response: We removed the requirement for GPS coordinates that was in the proposed rule. The annual report will require only the name of the county in which control activities were undertaken.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

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

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.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small businesses, small organizations, and small government jurisdictions.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action will not have a significant economic impact on a substantial number of small entities because the yellow-billed magpie does not frequently cause depredation problems. Where it does, depredation permits could be issued to alleviate problems.

The only potential costs associated with this regulations change is that a person needing a depredation permit to control yellow-billed magpies will have to pay the application fee for the permit, which is $100 for organizations and $50 for homeowners in California. When we updated the Information Collection for this regulation in 2013, only 24 entities reported take under the order. Of the 24, only three were in California, and only two were private entities.

Because the reporting under this regulation indicates that it is not used by many entities, and is used primarily by state and federal agencies, we do not believe that these considerations or the other changes to the regulation (application, trapping conditions, euthanasia, or reporting will have a significant economic impact on a substantial number of small entities. Accordingly, we certify that a regulatory flexibility analysis is not required.

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

a. This rule will not have an annual effect on the economy of $100 million or more.

b. This rule will not cause a major increase in costs or prices for

consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions.

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

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we have determined the following:

a. This rule will not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. Actions under the regulation will not affect small government activities in any significant way.

b. This rule will not produce a Federal mandate of $100 million or greater in any year. It will not be a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630, the rule has no takings implications. A takings implication assessment is not required.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a federalism summary impact statement under Executive Order 13132. It will not interfere with the ability of States to manage themselves or their funds. No significant economic impacts are expected to result from the change in the depredation order.

Civil Justice Reform

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.

Paperwork Reduction Act

This rule contains a collection of information that we submitted to the Office of Management and Budget (OMB) for review and approval under Sec. 3507(d) of the Paperwork Reduction Act (PRA). OMB has approved the information collection requirements and assigned OMB Control Number 1018–0146, which expires 10/31/2017. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. We have revised the information collection requirements as follows:

- 50 CFR 21.43(f)(6) requires that when an injured or debilitated bird of a nontarget species is federally listed as an endangered, threatened, or candidate species, you must deliver it to a rehabilitator and report the take to the nearest U.S. Fish and Wildlife Service Field Office or Special Agent.
- We have revised FWS Form 3–202–21–2143 (Annual Report—50 CFR 21.43 Depredation Order for Blackbirds, Cowbirds, Grackles, Crows, And Magpies) to gather data that will be more useful in assessing actions taken under the order. At present, we cannot assess the impacts of the depredation order on nontarget species. Therefore, we clarify that reporting of activities under this regulation requires a summary of those activities and information about capture of nontarget species. The annual report contains the following new reporting requirements:

(1) County in which the birds were captured or killed.

(2) Species, if birds were taken for the protection of wildlife, or the crop, if birds were taken for the protection of agriculture.

(3) Method of take.

(4) Whether captured nontarget species were released, sent to rehabilitators, or died.

(5) If trapping was conducted, measures taken to minimize capture of nontarget species.

Comments received on the reporting requirements are discussed above in the preamble. See comments (5), (6), (9), (10), (11), (16), (18), and (19).

Title: Depredation Order for Blackbirds, Grackles, Cowbirds, Magpies, and Crows, 50 CFR 21.43.

OMB Control Number: 1018–0146.

Service Form Number: 3–202–21–2143.

Type of Request: Revision of a currently approved collection.

Description of Respondents: Individuals, farmers, and State and Federal wildlife damage management personnel.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually or on occasion.

Requirement	Estimated number of annual respondents	Estimated number of annual responses	Completion time per response	Estimated annual burden hours
Report Injured/Debilitated Birds	5	5	1 hour	5
Annual Report—FWS Form 3–202–21–2143	30	30	2.5 hours	75

Estimated Total Nonhour Burden Cost: None.

You may send comments on any aspect of these information collection requirements to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, Mailstop BPHC, Falls Church, VA 22041–3803 (mail) or *hope_grey@fws.gov* (email).

National Environmental Policy Act

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432–437(f), and U.S. Department of the Interior regulations at 43 CFR 46 and have determined that the changes can be categorically excluded from the NEPA process. This action will have no significant effect on the quality of the human environment, nor will it involve unresolved conflicts concerning alternative uses of available resources.

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 potential effects on federally recognized Indian Tribes and have determined that there are no potential effects. This rule will not interfere with the ability of Tribes to manage themselves or their funds or to regulate migratory bird activities on Tribal lands.

Energy Supply, Distribution, or Use (Executive Order 13211)

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This action will not be a significant energy action. Because this rule change will not significantly affect energy supplies, distribution, or use, no Statement of Energy Effects is required.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''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'' (16 U.S.C. 1536(a)(2)). We have concluded that the regulation change will not affect listed species.

Literature Cited

Crosbie, S. P., W. D. Koenig, W. K. Reisen, V. L. Kramer, L. Marcus, R. Carney, E. Pandolfino, G. M. Bolen, L. R. Crosbie, D. A. Bell, and H. B. Ernest. 2008. Early impact of West Nile virus on the yellow-billed magpie (*Pica nuttalli*). Auk 125:542–550.

Ernest, H. B., L. W. Woods, and B. R. Hoar. 2010. Pathology associated with West Nile virus infections in the yellow-billed magpie (*Pica nuttalli*): a California endemic bird. Journal of Wildlife Diseases 46:401–408.

Koenig, W. and M. D. Reynolds. 2009. Yellow-billed Magpie (*Pica nuttalli*), The Birds of North America Online (A. Poole, Editor). Cornell Laboratory of Ornithology, Birds of North America Online: *http://bna.birds.cornell.edu/bna/species/180*, 27 January 2012.

U.S. Fish and Wildlife Service. 2008. Birds of Conservation Concern, 2008. Division of Migratory Bird Management, Arlington, Virginia.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons stated in the preamble, we amend part 21 of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 21—MIGRATORY BIRD PERMITS

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Revise § 21.43 to read as follows:

§ 21.43 Depredation order for blackbirds, cowbirds, crows, grackles, and magpies.

(a) *Species covered.*

Blackbirds	Cowbirds	Crows	Grackles	Magpies
Brewer's *(Euphagus cyanocephalus)* Red-winged *(Agelaius phoeniceus)* Yellow-headed *(Xanthocephalus xanthocephalus)*	Bronzed (*Molothrus aeneus*) Brown-headed *(Molothrus ater)* Shiny (*Molothrus bonariensis*)	American *(Corvus brachyrhynchos)* Fish *(Corvus ossifragus)* Northwestern *(Corvus caurinus)*	Boat-tailed *(Quiscalus major)* Common *(Quiscalus quiscula)* Great-tailed *(Quiscalus mexicanus)* Greater Antillean *(Quiscalus niger)*	Black-billed *(Pica hudsonia)*

(b) *Conditions under which control is allowed by private citizens.* You do not need a Federal permit to control the species listed in paragraph (a) of this section in the following circumstances:

(1) Where they are causing serious injuries to agricultural or horticultural crops or to livestock feed;

(2) When they cause a health hazard or structural property damage;

(3) To protect a species recognized by the Federal Government as an endangered, threatened, or candidate species in any county in which it occurs, as shown in the Service's Environmental Conservation Online System (*http://ecos.fws.gov*);

(4) To protect a species recognized by the Federal Government as an endangered or threatened species in designated critical habitat for the species; or

(5) To protect a species recognized by a State or Tribe as endangered, threatened, candidate, or of special concern if the control takes place within that State or on the lands of that tribe, respectively.

(6) Each calendar year, you must attempt to control depredation by species listed under this depredation order using nonlethal methods before you may use lethal control. Nonlethal control methods can include such measures as netting and flagging, the use of trained raptors, propane cannons, and recordings.

(c) *Conditions under which control is allowed by Federal, State, and Tribal employees.* You do not need a Federal permit to control the species listed in paragraph (a) of this section in the following circumstances:

(1) Where they are causing serious injuries to agricultural or horticultural crops or to livestock feed;

(2) When they cause a health hazard or structural property damage; or

(3) To protect a species recognized by the Federal Government, a State, or a Tribe as an endangered, threatened, or candidate, species, or a species of special concern, including critical habitat for any listed species.

(4) Each calendar year, you must attempt to control depredation by species listed under this depredation order using nonlethal methods before you may use lethal control. Nonlethal control methods can include such measures as netting and flagging, the use of trained raptors, propane cannons, and recordings. However, this requirement does not apply to Federal, State, or Tribal employees conducting brown-headed cowbird trapping to protect a species recognized by the Federal Government, a State, or a Tribe as endangered, threatened, candidate, or of special concern.

(d) *Ammunition.* In most cases, if you use a firearm to kill migratory birds under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so. See § 20.21(j) of this chapter for a listing of approved nontoxic shot types. However, this prohibition does not apply if you use an air rifle or an air pistol for control of depredating birds.

(e) *Access to control efforts.* If you exercise any of the privileges granted by this section, you must allow any Federal, State, tribal, or territorial wildlife law enforcement officer unrestricted access at all reasonable times (including during actual operations) over the premises on which you are conducting the control. You must furnish the officer whatever information he or she may require about your control operations.

(f) *Trapping conditions.* You must comply with the following conditions if you attempt to trap any species under this order.

(1) You may possess, transport, and use a lure bird or birds of the species

listed in paragraph (a) that you wish to trap.

(2) You must check each trap at least once every day it is deployed.

(3) At temperatures above 80° Fahrenheit, the traps must provide shade for captured birds.

(4) Each trap must contain adequate food and water.

(5) You must promptly release all healthy nontarget birds that you capture.

(6) If a federally permitted wildlife rehabilitator is within 1 hour or less of your capture efforts, you must send injured or debilitated nontarget federally protected migratory birds to the rehabilitator. If no rehabilitator is closer than 1 hour away, you may euthanize an injured or debilitated bird of a nontarget species unless the species is federally listed as an endangered, threatened, or candidate species, in which case you must deliver it to a rehabilitator and report the take to the nearest U.S. Fish and Wildlife Service Field Office or Special Agent.

(7) You must report captures of nontarget federally protected migratory birds in your annual report (see paragraph (i) of this section).

(g) *Euthanasia.* Captured birds and wounded or injured birds of the species listed in paragraph (a) may only be killed by carbon monoxide or carbon dioxide inhalation, or by cervical dislocation performed by well-trained personnel who are regularly monitored to ensure proficiency.

(h) *Disposition of birds and parts.* You may not sell, or offer to sell, any bird, or any part thereof, killed under this section, but you may possess, transport, and otherwise dispose of the bird or its parts, including transferring them to authorized research or educational institutions. If not transferred, the bird and its parts must either be burned, or buried at least 1 mile from the nesting area of any migratory bird species recognized by the Federal Government, the State, or a Tribe as an endangered or threatened species.

(i) *Annual report.* Any person, business, organization, or government official acting under this depredation order must provide an annual report using FWS Form 3–202–21–2143 to the appropriate Regional Migratory Bird Permit Office. The addresses for the Regional Migratory Bird Permit Offices are provided at 50 CFR 2.2, and are on the form. The report is due by January 31st of the following year and must include the information requested on the form.

(j) *Compliance with other laws.* You may trap and kill birds under this order only in a way that complies with all State, tribal, or territorial laws or regulations. You must have any State, tribal, or territorial permit required to conduct the activity.

(k) *Information collection.* The Office of Management and Budget has approved the information collection requirements associated with this depredation order and assigned OMB Control No. 1018–0146. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection requirements to the Service's Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

Dated: October 30, 2014.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–26270 Filed 11–4–14; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register

Vol. 79, No. 214

Wednesday, November 5, 2014

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2014–0238]

RIN 3150–AJ48

Definition of a Utilization Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting the docket identification number and Regulation Identifier Number (RIN) for a Proposed Rule that was published in the **Federal Register** (FR) on October 17, 2014, to amend the NRC's regulations to add SHINE Medical Technologies, Inc.'s accelerator-driven subcritical operating assemblies, as described in the application assigned docket number 50–608, to the definition of utilization facility.

DATES: This correction is effective November 5, 2014.

ADDRESSES: Please refer to Docket ID NRC–2014–0238 when contacting the NRC about the availability of information for this document. You may obtain publicly-available information related to this proposed rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0238. 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, at 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *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: Steven Lynch, Office of Nuclear Reactor Regulation; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1524; email: *Steven.Lynch@nrc.gov.*

SUPPLEMENTARY INFORMATION: On October 17, 2014, (79 FR 62360), the NRC published a Proposed Rule to amend the NRC's regulations to add SHINE Medical Technologies, Inc.'s accelerator-driven subcritical operating assemblies, as described in the application assigned docket number 50–608, to the definition of utilization facility. That rule incorrectly identified the docket identification number for the action as NRC–2013–0053, and the RIN for the action as 3150–AJ18.

Correction

Accordingly, in proposed rule FR Doc. 2014–24733, on page 62360, in the Friday issue of October 17, 2014 (79 FR 62360), the docket identification number NRC–2013–0053 in the heading of the document and in all other instances on page 62360, is revised to read NRC–2014–0238. In addition, the RIN 3150–AJ18 in the heading of the document is revised to read 3150–AJ48.

Dated at Rockville, Maryland, this 30th day of October, 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

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

[FR Doc. 2014–26253 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2014–BT–STD–0048]

RIN 1904–AD37

Energy Conservation Program: Energy Conservation Standards for Residential Central Air Conditioners and Heat Pumps; Request for Information

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) is initiating an effort to determine whether to amend the current energy conservation standards for residential central air conditioner and heat pump products. According to the Energy Policy and Conservation Act's 6-year review requirement (42 U.S.C. 6295(m)(1)), DOE must publish a notice of proposed rulemaking to propose new standards for residential central air conditioner and heat pump products or a notice of determination that the existing standards do not need to be amended by June 6, 2017. This RFI seeks to solicit information from the public to help DOE determine whether amended standards for residential central air conditioner and heat pump products would result in a significant amount of additional energy savings and whether those standards would be technologically feasible and economically justified.

DATES: Written comments and information are requested on or before December 5, 2014.

ADDRESSES: Interested parties are encouraged to submit comments electronically. However, comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email to the following address: CAC HeatPump2014STD0048@ee.doe.gov.* Include docket number EERE–2014–BT–STD–0048 and/or RIN 1904–AD37 in the subject line of the message. All comments should clearly identify the name, address, and, if appropriate, organization of the commenter.

• *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Request for Information for Energy Conservation Standards for Residential Central Air Conditioners and Heat Pumps, Docket No. EERE–2014–BT–STD–0048 and/or RIN 1904–AD37, 1000 Independence Avenue SW., Washington, DC 20585–0121. Please submit one signed paper original.

• *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number and/or RIN for this rulemaking. No telefacsimiles (faxes) will be accepted.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0048.* This Web page contains a link to the docket for this notice on the *www.regulations.gov* Web site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

For information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information may be sent to:

Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*

Ms. Johanna Hariharan, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6307. Email: *johanna.hariharan@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
A. Authority and Background
B. Rulemaking Process
II. Request for Information and Comments
A. Market Assessment and Screening Analysis
B. Engineering Analysis
C. Markups Analysis
D. Energy Use Analysis
E. Life-Cycle Cost and Payback Period Analysis
F. Shipments Analysis
G. National Impact Analysis
H. Manufacturer Impact Analysis
I. Submission of Comments

I. Introduction

A. Authority and Background

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163, (42 U.S.C. 6291–6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering major household appliances (collectively referred to as ''covered products''), including residential central air conditioners and heat pumps that are the subject of this rulemaking. (42 U.S.C. 6292(a)(3))

EPCA prescribed energy conservation standards for central air conditioners and heat pumps and directed DOE to conduct two cycles of rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(d)(1)–(3)) DOE completed the second of the two rulemaking cycles by publishing a direct final rule on June 27, 2011 (2011 Direct Final Rule). 76 FR 37414. The DFR amended standards for central air conditioners and heat pumps manufactured on or after January 1, 2015. These amended standards differ by region. (10 CFR 430.32(c)(2)–(5)) DOE seeks comment from interested parties as to whether DOE should consider and analyze amended standards on a national basis or amended standards that differ by region for central air conditioners and heat pumps.

EPCA requires that, not later than 6 years after the issuance of a final rule establishing or amending a standard, DOE publish a NOPR proposing new standards or a notice of determination that the existing standards do not need to be amended. (42 U.S.C. 6295(m)(1)) Based on this provision, DOE must publish by June 6, 2017 either a NOPR proposing new standards for residential central air conditioners and heat pumps or a notice of determination that the existing standards do not need to be amended. Today's notice seeks input from the public to assist DOE with its determination on whether amended standards pertaining to residential central air conditioners and heat pumps are warranted. In making this determination, DOE must evaluate whether more amended standards would (1) yield a significant savings in energy use and (2) be both technologically feasible and economically justified. (42 U.S.C. 6295(o)(3)(B))

B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products. EPCA requires that any new or amended energy conservation standard be designed to achieve the maximum improvement in energy or water efficiency that is technologically feasible and economically justified. To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following:

1. The economic impact of the standard on the manufacturers and consumers of the affected products;
2. The savings in operating costs throughout the estimated average life of the product compared to any increases in the initial cost, or maintenance expense, likely to result from the imposition of the standard;
3. The total projected amount of energy savings likely to result directly from the imposition of the standard;
4. Any lessening of the utility or the performance of the products likely to result from the imposition of the standard;
5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;
6. The need for national energy and water conservation; and
7. Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6295 (o)(2)(B)(i))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table B.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE B.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA Requirement	Corresponding DOE analysis
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic impact on manufacturers and consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Life-Cycle Cost Subgroup Analysis. • Shipments Analysis.
2. Lifetime operating cost savings compared to increased cost for the product.	• Markups for Product Price Determination. • Energy and Water Use Determination. • Life-Cycle Cost and Payback Period Analysis.
3. Total projected energy savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on utility or performance	• Screening Analysis. • Engineering Analysis.
5. Impact of any lessening of competition	• Manufacturer Impact Analysis.
6. Need for national energy and water conservation	• Shipments Analysis. • National Impact Analysis.
7. Other factors the Secretary considers relevant	• Emissions Analysis. • Utility Impact Analysis. • Employment Impact Analysis. • Monetization of Emission Reductions Benefits. • Regulatory Impact Analysis.

As detailed throughout this RFI, DOE is specifically publishing this notice as the first step in the analysis process and is specifically requesting input and data from interested parties to aid in the development of the technical analyses.

II. Request for Information and Comments

In the next section, DOE has identified a variety of questions that DOE would like to receive input on to aid in the development of the technical and economic analyses regarding whether new standards for residential central air conditioners and heat pumps may be warranted. In addition, DOE welcomes comments on other issues relevant to the conduct of this rulemaking that may not specifically be identified in this notice.

A. Market Assessment and Screening Analysis

The market and technology assessment provides information about the residential central air conditioner and heat pump industry that would be used throughout the rulemaking process. For example, this information may address technological improvements used in the design and manufacturing of such products. DOE uses qualitative and quantitative information to characterize the structure of the residential central air conditioner and heat pump industry and market. In this analysis, DOE will identify and characterize the manufacturers of residential central air conditioners and heat pumps, estimate market shares and trends, address regulatory and non-regulatory initiatives intended to improve energy efficiency or reduce energy consumption, and explore the potential for technological improvements in the design and manufacturing of residential central air conditioners and heat pumps. DOE will also review product literature, industry publications, and company Web sites. Additionally, DOE will also consider conducting interviews with manufacturers to assess the overall market for residential central air conditioners and heat pumps.

Product Classes

When evaluating and establishing energy conservation standards, DOE may divide covered products into product classes by the type of energy used or by capacity or other performance-related features that would justify a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider factors such as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q)) The energy conservation standards for residential central air conditioners and heat pumps established by the 2011 Direct Final Rule will become effective on January 1, 2015. 10 CFR Part 430.32(c)(2) lists the seven product classes for residential central air conditioners and heat pumps and their corresponding energy conservation standards. The product classes are:

(1) Split system air conditioners
(2) Split system heat pumps
(3) Single-package air conditioners
(4) Single-package heat pumps
(5) Small duct, high velocity (SDHV) systems
(6) Space-constrained air conditioners
(7) Space-constrained heat pumps

For this rulemaking, DOE plans to maintain the existing product classes for residential central air conditioners and heat pumps, as presented above.

Issue A.1 DOE requests feedback on whether it should consider any changes to the existing product classes for residential central air conditioners and heat pumps.

Technology Assessment and Screening Analysis

The purpose of the technology assessment is to develop a preliminary list of technologies that could potentially be used to improve the efficiency of residential central air conditioners and heat pumps. The purpose of the screening analysis is to screen out technologies that are not appropriate for consideration in the engineering analysis due to the following four factors: (1) Technological feasibility, (2) practicability to manufacture, install, and service, (3) impacts on product utility to consumers, and (4) health and safety. (10 CFR 430, subpart C, appendix A, section (4)(a)(4)) The technologies that pass the screening are called design options and are considered in the engineering analysis. DOE uses information about existing and past technology options and prototype designs to help identify technologies

that manufacturers could use to meet and/or exceed energy conservation standards.

The 2011 Direct Final Rule identified several design options that are employed in central air conditioners and heat pumps. The design options used in the 2011 Direct Final Rule analyses may still be representative of the range of design options currently employed by product manufacturers, as listed below:

A. Higher-efficiency compressors
B. Higher-efficiency fan motors
C. Higher-efficiency fan blades
D. Improvements to baseline coils
E. Micro-channel heat exchangers
F. Flat-tube heat exchangers
G. Heat pump defrost controls
H. Inverter technology
I. High-efficiency expansion valves

However, DOE understands that manufacturers typically introduce new design options into the market as technology evolves over time.

Issue A.2 DOE requests comment on whether DOE should consider design options other than those considered in the analyses supporting the 2011 Direct Final Rule, as listed above.

B. Engineering Analysis

The engineering analysis estimates the cost-efficiency relationship of products at different levels of increased energy efficiency. This relationship serves as the basis for the cost-benefit calculations for consumers, manufacturers, and the nation. In determining the cost-efficiency relationship, DOE estimates the increase in manufacturer cost associated with increasing the efficiency of products above the baseline to the maximum technologically feasible (''max-tech'') efficiency level for each product class. The baseline model is used as a reference point for each product class in the engineering analysis and the life-cycle cost and payback-period analyses.

Efficiency Levels

For each established product class, DOE selects a baseline model as a reference point against which any changes resulting from energy conservation standards can be measured. The baseline model in each product class represents the characteristics of common or typical products in that class. Typically, a baseline model is one that meets the current minimum energy conservation standards by a small or zero margin.

In the 2011 Direct Final Rule, DOE established minimum energy conservation standards that will become effective on January 1, 2015.[1] DOE would consider these minimum energy conservation standards as the baseline efficiency levels for any analyses conducted to consider amending the standards.

During the 2011 DFR rulemaking, DOE also established maximum-technology (max-tech) efficiency levels for residential central air conditioner and heat pump product classes. DOE determined each max-tech level by researching the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) directory[2] and the major manufacturers' product literature.

DOE also set regional cooling performance standards for split system air conditioners as a function of a Seasonal Energy Efficiency Ratio (SEER) in the states of Virginia, Maryland, Kentucky, North and South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Texas, and Oklahoma (South), and regional performance standards for split system and single-package air conditioners as a function of SEER and Energy Efficiency Ratio (EER) in the states of Arizona, California, Nevada, or New Mexico (Southwest). In both cases, DOE has identified baseline and max-tech efficiency levels for the respective SEER and EER values. Table B.1 summarizes these efficiency levels.

TABLE B.1—BASELINE AND MAX-TECH EFFICIENCY LEVELS OF COVERED PRODUCTS

Product class		Baseline	Max-Tech
SEER or EER (Btu/hr-W)			
Split system air conditioner	SEER	13.0	26.0
<45,000 Btu/hr	*EER*	*12.2*	*16.5*
≥45,000 Btu/hr	*EER*	*11.7*	*13.0*
Single-package air conditioner	SEER	14.0	20.0
	EER	*11.0*	*13.0*
Split system heat pump	SEER	14.0	24.0
Single-packaged heat pump	SEER	14.0	16.4
Small-duct, high-velocity systems	SEER	12.0	12.5
Space constrained air conditioner	SEER	12.0	14.0
Space constrained heat pump	SEER	12.0	12.0

Issue B.1 DOE requests comment on the baseline and max-tech efficiency levels for each product class.

C. Markups Analysis

To carry out the life-cycle cost (LCC) and payback period (PBP) calculations, DOE needs to determine the cost to the residential consumer of baseline products that satisfies the currently applicable standards, and the cost of the more-efficient unit the consumer would purchase under potential amended standards. By applying a multiplier called a ''markup'' to the manufacturer's selling price, DOE is able to estimate the residential consumer's price.

For the 2011 Direct Final Rule, DOE used two distribution channels to characterize how products pass from the manufacturer to the customer: Replacement applications and new construction. 76 FR 37464–65 (June 27, 2011). For residential central air conditioning and heat pump products installed in replacement applications, the manufacturer sells the equipment to a wholesaler, who in turn sells it to a mechanical contractor, who in turns sells it to the consumer. For products installed in new construction applications, an additional link in the distribution chain for the general

[1] In addition, the American Manufacturing Technical Corrections Act of 2012 established minimum energy conservation standards for small duct, high velocity systems that will become effective on January 1, 2015. These were added to the code of regulations in a December 3, 2013 Technical Amendment. 78 FR 72533.

[2] AHRI is the trade association representing manufacturers of HVACR and water heating equipment within the global industry. Products of different manufacturers are certified to AHRI and listed in the AHRI directory: *https://www.ahridirectory.org/ahridirectory/pages/home.aspx.*

contractor is added. In this new construction distribution channel, the manufacturer sells the equipment to a wholesaler, who in turn sells it to a mechanical contractor, who in turn sells it to a general contractor, who in turns sells it to the consumer.

To be consistent with the approach followed in the 2011 rulemaking and for other energy consuming product rulemakings, DOE plans to estimate the manufacturer markup based on publicly available data (e.g., SEC 10–K reports, corporate annual reports) and feedback obtained from manufacturers during interviews. DOE also plans to estimate average wholesaler, mechanical contractor, and general contractor markups based on available income statement data (e.g., Heating, Air-conditioning & Refrigeration Wholesalers International (HARDI) Profit Planning Reports, Air Conditioning Contractors of America (ACCA), U.S. Census Bureau).

Issue C.1 DOE seeks input on distribution channels relevant for residential central air conditioners and heat pumps as well as the percent of equipment being distributed through the channels.

Issue C.2 DOE seeks recent data to establish the markups for the parties involved with the distribution of the equipment addressed by today's notice.

D. Energy Use Analysis

The purpose of the energy analysis is to assess the energy-savings potential of different product efficiencies. DOE uses the annual energy consumption and energy-savings potential in the LCC and PBP analyses to establish the savings in consumer operating costs at various product efficiency levels. As part of the energy use analysis, certain assumptions may be required regarding product application, including how and under what conditions the product is operated.

DOE's energy use analysis estimates the range of energy use of residential central air conditioner and heat pump products in the field, *i.e.,* as they are actually used by consumers. Because energy use by such products varies greatly based on efficiency level, consumer usage patterns, and environmental attributes, DOE will establish a range of energy use.

Because DOE has set regional cooling-performance standards for split system and single-package air conditioners as function of SEER and EER, DOE will analyze the impact of increasing SEER and EER on cooling energy savings.

Issue D.1 DOE requests stakeholder input regarding the impact of changes in SEER and EER on cooling energy savings.

In the 2011 Direct Final Rule, DOE estimated that, based on stakeholder input, seven-percent of central air conditioner and heat pump shipments were utilized in commercial building applications. DOE utilized simulations of a reference office building modeled with EnergyPlus to estimate the representative space-cooling and space-heating energy consumption of central air conditioners and heat pumps in commercial buildings. For this rulemaking, DOE is considering using the same methodology to estimate energy use in commercial building applications.

Issue D.2 DOE requests stakeholder comment on whether a significant enough percentage of residential central air conditioners and heat pumps are utilized in commercial buildings to warrant considering their use in commercial applications.

E. Life-Cycle Cost and Payback Period Analysis

The purpose of the LCC and PBP analysis is to analyze the effects of potential amended energy conservation standards on consumers of residential central air conditioner and heat pump products by determining how a potential amended standard affects the consumers' operating expenses (usually decreased) and total installed costs (usually increased).

DOE intends to analyze the potential for variability and uncertainty by performing the LCC and PBP calculations on a representative sample of households from RECS for the considered product classes using Monte Carlo simulation and probability distributions. The analysis results are a distribution of results showing the range of LCC savings and PBPs for a given efficiency level relative to the baseline level. DOE plans to analyze all seven product classes of residential central air conditioner and heat pump products.

Inputs to the LCC and PBP analysis are categorized as: (1) Inputs for establishing the purchase expense, otherwise known as the total installed cost, and (2) inputs for calculating the operating expense. The primary inputs for establishing the total installed cost are the baseline consumer price, standard-level consumer price increases, and installation costs. Baseline consumer prices and standard-level consumer price increases will be determined by applying markups to manufacturer price estimates. The installation cost is added to the consumer price to arrive at a total installed cost.

In the 2011 Direct Final Rule, DOE derived the total installed cost from central air conditioner data in RS Means. 76 FR 37472 (June 27, 2011). DOE plans to use similar data sources for this rulemaking, with adjustments to reflect current-day labor and material prices as well as to scale installation cost for higher-efficiency products based on equipment weight.

Issue E.1 DOE seeks input on the appropriateness to estimate that changes in installation costs will scale with equipment weight.

The primary inputs for calculating the operating costs are product energy consumption, product efficiency, electricity and gas prices and forecasts, maintenance and repair costs, product lifetime, and discount rates. Both product lifetime and discount rates are used to calculate the present value of future operating expenses.

Maintenance costs are costs associated with maintaining the operation of the product. In the 2011 Direct Final Rule, DOE utilized sources of preventative maintenance pricing to determine maintenance costs. 76 FR 37476 (June 27, 2011). DOE also assumed that such maintenance costs do not change with efficiency. 76 FR 37471, 37476.

Issue E.2 DOE seeks stakeholder input on the appropriateness to assume that changes in maintenance costs will be negligible for more-efficient products.

Repair costs are costs associated with a major repair to the product. In the 2011 Direct Final Rule, DOE determined the costs of major repairs (*e.g.,* compressor replacement) from RS Means and industry literature. 76 FR 37476 (June 27, 2011). DOE also assumed that repair costs vary in direct proportion with the product price at higher efficiency levels as replacement costs for more-efficient components are likely to be greater than components in baseline products. 76 FR 37471, 37476.

Issue E.3 DOE seeks stakeholder comment on the assumption that repair costs vary in direct proportion to product price.

DOE measures LCC and PBP impacts of potential standard levels relative to a base case that reflects the market in the absence of amended standards. DOE plans to develop market-share efficiency data (*i.e.,* the distribution of product shipments by efficiency) for the product classes DOE is considering, for the year in which compliance with any amended or new standards would be required. By accounting for consumers who already purchase more efficient products, DOE avoids overstating the potential benefits from potential standards.

Issue E.4 DOE seeks stakeholder input and data on the fraction of central

air conditioners and heat pumps that are sold above the minimum energy efficiency standards. DOE requests such data to be provided by product class and, for split system air conditioners, by region. DOE also requests information on expected trends in product efficiency over the next five years.

F. Shipments Analysis

DOE uses shipment projections by product class and efficiency level in its analysis of the national impacts of potential standards, as well as in the manufacturer impact analysis.

In the 2011 Direct Final Rule, DOE developed a shipments model for residential central air conditioner and heat pump products driven by historical shipments data, which were used to build up a product stock and calibrate the shipments model. 76 FR 37482 (June 27, 2011). Shipments of each product class were projected for two market sectors that use these products: Residential and commercial sectors; for three product placement channels in each market sector: New construction, existing owners, and new owners; and for three climatic regions: hot-dry, hot-humid, and rest of the U.S., which correspond to the regions for which DOE ultimately adopted regional standards.

Issue F.1 DOE seeks stakeholder input and data showing the distribution of shipments by product class, market sector, product placement channel, and climactic region.

In the 2011 Direct Final Rule, DOE modeled the decision to repair or replace equipment for existing owners and the impact that decision would have on the shipments model. 76 FR 37482–84. DOE investigated how increases in product purchase price and decreases in product operating costs due to standards impact product shipments due to standards.

Issue F.2 DOE seeks input and data on factors that influence a consumer's decisions to repair or replace failed products. In particular, DOE is seeking historical repair cost data as a function of efficiency.

G. National Impact Analysis

The purpose of the national impact analysis (NIA) is to estimate aggregate impacts of potential efficiency standards at the national level. Impacts that DOE reports include the national energy savings (NES) from potential standards and the national NPV of the total consumer benefits. The NIA considers lifetime impacts of potential standards on residential central air conditioner and heat pump products shipped in a 30-year period that begins with the expected compliance date for new or amended standards. To develop the NES, DOE calculates annual energy consumption of products in the building stock for the base case and each standards case. To develop the national NPV of consumer benefits from potential standards, DOE calculates national annual energy expenditures and annual product expenditures for the base case and the standards cases. DOE calculates total annual energy expenditures using data on annual energy consumption in each case, forecasted average annual energy prices, and shipment projections. The difference each year between operating cost savings and increased product expenditures is the net savings or net costs.

A key component of DOE's estimates of NES and NPV is the product energy efficiency forecasted over time for the base case and for each of the standards cases. In the 2011 Direct Final Rule, DOE based projections of base-case shipment-weighted efficiency (SWEF) for the single-packaged and split system air conditioner and heat pump product classes off SWEF growth rates determined from historical data provided by AHRI. 76 FR 37484–86 (June 27, 2011). Since DOE only received efficiency data at the national level, it assumed that the efficiency distributions and trends developed for the entire Nation are also representative at the regional level (*i.e.,* efficiency distributions and trends do not vary by region). For this rulemaking, DOE plans on considering recent trends in efficiency and input from stakeholders to update product energy efficiency forecasts, and maintain the assumption that efficiency trends developed for the entire Nation are also representative at the regional level.

Issue G.1 DOE seeks stakeholder input and historical SWEF data for residential central air conditioner and heat pumps by product class and by region.

H. Manufacturer Impact Analysis

The purpose of the manufacturer impact analysis (MIA) is to estimate the financial impact of potential energy conservation standards on manufacturers of residential central air conditioners and heat pumps and to evaluate the potential impact of such standards on employment and manufacturing capacity. The MIA includes both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (GRIM), an industry cash-flow model used to estimate a range of potential impacts on manufacturer profitability. The qualitative part of the MIA addresses a proposed standard's potential impacts on manufacturing capacity and industry competition, as well as factors such as product characteristics, impacts on particular subgroups of firms, and important market and product trends.

As part of the MIA, DOE intends to analyze impacts of potential energy conservation standards on small business manufacturers of covered products. DOE intends to use the Small Business Administration's small business size standards to determine whether manufacturers qualify as small businesses. The size standards are listed by North American Industry Classification System (NAICS) code and industry description.[3] Manufacturing of residential central air conditioners and heat pumps is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category. This 750-employee threshold would include all employees in a business's parent company and any other subsidiaries.

DOE conducted a market survey using publicly available information to identify potential small manufacturers. DOE's used DOE's Compliance Certification Management System (CCMS), industry trade association membership directories (including AHRI), individual company Web sites, and market research tools (e.g., Hoovers reports) to create a list of companies that manufacture or sell products covered by this rulemaking. DOE has initially identified seven domestic small businesses that manufacture residential central air conditioners and heat pumps. The small businesses identified are:

- Aerosys, Inc.
- Bard Manufacturing Company
- First Co.
- Heat Controller, Inc.
- National Refrigeration and Air Conditioning Products, Inc.
- Style Crest Enterprises, Inc.
- Unico, Inc.

Issue H.1 DOE requests comment on what small business manufacturers of residential central air conditioners and heat pumps have not been identified in the above list that it should consider in its analysis.

I. Submission of Comments

DOE invites all interested parties to submit in writing by December 5, 2014,

[3] Available at: *http://www.sba.gov/content/small-business-size-standards.*

comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of new or amended energy conservations standards for residential central air conditioners and heat pumps. After the close of the comment period, DOE will begin collecting data, conducting the analyses, and reviewing the public comments, as needed. These actions will be taken to aid in the development of a NOPR for residential central air conditioner and heat pump products if DOE decides to amend the standards for such products.

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Ms. Brenda Edwards at (202) 586–2945, or via email at *Brenda.Edwards@ee.doe.gov.*

Issued in Washington, DC, on October 30, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–26247 Filed 11–4–14; 8:45 am]

BILLING CODE 6450–01–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 380

[Docket No. 2014–CRB–0001–WR (2016–2020) (Web IV)]

Digital Performance Right in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Royalty Judges are publishing for comment proposed regulations governing the rates and terms for the digital performances of sound recordings by noncommercial educational webcasters and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2016, and ending on December 31, 2020.

DATES: Comments and objections, if any, are due no later than November 26, 2014.

ADDRESSES: The proposed rule is posted on the agency's Web site (*www.loc.gov/crb*). Submit electronic comments online at *http://www.regulations.gov* or via email to *crb@loc.gov.* Those who chose not to submit comments electronically should see How to Submit Comments in the **SUPPLEMENTARY INFORMATION** section below for physical addresses and further instructions.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Kimberly Whittle, Attorney Advisor, by telephone at (202) 707–7658, or by email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On October 7, 2014, the Copyright Royalty Judges received a joint motion from SoundExchange, Inc. and College Broadcasters, Inc. to adopt a partial settlement of their interests regarding Web IV rates and terms for 2016–2020.[1] Joint Motion to Adopt Partial Settlement, Docket No. 2014–CRB–0001–WR (2016–2020). Their interests concern the rule setting copyright royalty minimum fees and terms that the Judges will establish for compulsory copyright licenses for certain internet transmissions of sound recordings by college radio stations and other noncommercial educational webcasters for the period from January 1, 2016, through December 31, 2020. SoundExchange, Inc. represents the interests of sound recording copyright owners and performers. College Broadcasters, Inc. represents the interests of users of the copyrighted material which users include college, university and high school radio and television stations and other electronic media organizations. The Judges hereby publish the proposal and request comments from the public.

Section 114 of the Copyright Act, title 17 of the United States Code, provides a statutory license that allows for the public performance of sound recordings by means of a digital audio transmission by, among others, eligible nonsubscription transmission services and new subscription services. 17 U.S.C. 114(f). For purposes of the section 114 license, an ''eligible nonsubscription transmission'' is a noninteractive digital audio transmission that does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings the purpose of which is to provide audio or other entertainment programming, but not to sell, advertise, or promote particular goods or services. *See* 17 U.S.C. 114(j)(6). A ''new subscription service'' is a ''service that performs sound recordings by means of noninteractive subscription digital audio transmissions and that is not a preexisting subscription or preexisting satellite digital audio radio service.'' 17 U.S.C. 114(j)(8).

Services using the section 114 license may need to make one or more temporary or ''ephemeral'' copies of a sound recording in order to facilitate the transmission of that recording. The section 112 statutory license allows for the making of these ephemeral reproductions. 17 U.S.C. 112(e).

Chapter 8 of the Copyright Act requires the Copyright Royalty Judges (''Judges'') to conduct proceedings every five years to determine the rates and terms for the sections 114 and 112 statutory licenses. 17 U.S.C. 801(b)(1), 804(b)(3)(A). The current proceeding commenced in January 2014 for rates and terms that will become effective on January 1, 2016, and end on December 31, 2020. Pursuant to section 804(b)(3)(A), the Judges published in the **Federal Register** a notice commencing the proceeding and requesting that interested parties submit their petitions to participate. 79 FR 412 (January 3, 2014). The following parties submitted Petitions to Participate: 8tracks, Inc.; AccuRadio, LLC; Amazon.com, Inc.; Apple Inc; Beats Music, LLC; Clear Channel; CMN, Inc.; College Broadcasters, Inc. (CBI); CustomChannels.net, LLC; Digital Media Association (DiMA); Digitally Imported, Inc.; Educational Media Foundation; Feed Media, Inc.; Geo Music Group; Harvard Radio Broadcasting Inc. (WHRB); idobi Network; Intercollegiate Broadcasting System, Inc. (IBS); Music Reports Inc.; National Association of Broadcasters (NAB); National Music Publishers Association (NMPA); National Public Radio (NPR); National Religious Broadcasters Noncommercial Music License Committee (NRBNMLC); Pandora Media Inc.; Rhapsody International, Inc.; Sirius XM Radio Inc.;

[1] Web IV is short for Webcasting IV. This proceeding is the fourth since the compulsory license for webcasting was established.

SomaFM.com LLC; SoundExchange, Inc. (SX); Spotify USA Inc.; and Triton.[2]

The Judges set the timetable for the three-month negotiation period for February 21, 2014, through May 22, 2014. *See* 17 U.S.C. 803(b)(3). The Judges set December 22, 2014, as the deadline by which participants were to submit amended written direct statements. On October 7, 2014, SoundExchange and CBI submitted to the Judges a joint motion to adopt a partial settlement of their interests in the proceeding. The parties requested that the Judges make their decision on the motion by approximately December 1, 2014, in order to allow the parties time to prepare for litigation should the Judges decline to adopt their proposed partial settlement.

Statutory Timing of Adoption of Rates and Terms

Section 801(b)(7)(A) allows for the adoption of rates and terms negotiated by ''some or all of the participants in a proceeding at any time during the proceeding'' provided the parties submit the negotiated rates and terms to the Copyright Royalty Judges for approval. This section provides:

(i) The Copyright Royalty Judges shall provide to those that would be bound by the terms, rates, or other determination set by any agreement in a proceeding to determine royalty rates an opportunity to comment on the agreement and shall provide to participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as a basis for statutory terms and rates; and

(ii) The Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement, if any participant described in clause (i) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.

17 U.S.C. 801(b)(7)(A). Rates and terms adopted pursuant to this provision are binding on all copyright owners of sound recordings, college radio stations, and other noncommercial educational webcasters performing the sound recordings for the license period 2016–2020.

[2] The following ten parties have withdrawn their Petitions to Participate: 8tracks, Inc.; Amazon.com, Inc.; CMN, Inc.; CustomChannels.net, LLC; Digitally Imported, Inc.; Feed Media, Inc.; idobi Network; Rhapsody International, Inc.; SomaFM.com LLC; Spotify USA Inc. Two parties, Music Reports Inc. and Triton Digital, Inc., have been dismissed from the proceeding.

Proposed Adjustments to Rates and Terms

In the settlement proposal, SoundExchange and CBI request that the Judges adjust the details of 37 CFR part 380 Subpart C by ''(1) more strictly limiting eligibility for the rates set forth herein to services that remain below 159,140 aggregate tuning hours per channel or station per month; and (2) somewhat increasing the listenership cap for services electing the proxy reporting option.'' Joint Motion to Adopt Partial Settlement at 2. The proposed adjustments would affect §§ 380.20 (general), 380.21 (definitions), 380.22 (fees), and 380.23 (terms) and are reflected in the Proposed Regulations below.

The public may comment and object to any or all of the proposed regulations contained in this notice. Such comments and objections must be submitted no later than November 26, 2014.

How To Submit Comments

Interested members of the public must submit comments to only one of the following addresses. If not commenting by email or online, commenters must submit an original of their comments, five paper copies, and an electronic version on a CD.

Email: crb@loc.gov; or

Online: http://www.regulations.gov; or

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue SE., Washington, DC 20559–6000. Deliver to: Congressional Courier Acceptance Site, 2nd Street NE. and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue SE., Washington, DC 20559–6000.

List of Subjects in 37 CFR Part 380

Copyright, Sound recordings, Webcasters.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to amend 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR CERTAIN ELIGIBLE NONSUBSCRIPTION TRANSMISSIONS, NEW SUBSCRIPTION SERVICES AND THE MAKING OF EPHEMERAL REPRODUCTIONS

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

■ 2. Amend § 380.20 by revising paragraph (a) to read as follows:

Subpart C—Noncommercial Educational Webcasters

§ 380.20 General.

(a) *Scope.* This subpart establishes rates and terms, including requirements for royalty payments, recordkeeping and reports of use, for the public performance of sound recordings in certain digital transmissions made by Noncommercial Educational Webcasters as set forth herein in accordance with the provisions of 17 U.S.C. 114, and the making of Ephemeral Recordings by Noncommercial Educational Webcasters as set forth herein in accordance with the provisions of 17 U.S.C. 112(e), during the period January 1, 2016, through December 31, 2020.

* * * * *

■ 3. Amend § 380.21 by revising the definitions for ''Collective'' and ''Noncommercial Educational Webcaster'' to read as follows:

§ 380.21 Definitions.

* * * * *

Collective is the collection and distribution organization that is designated by the Copyright Royalty Judges. For the 2016–2020 license period, the Collective is SoundExchange, Inc.

* * * * *

Noncommercial Educational Webcaster means a Noncommercial Webcaster (as defined in 17 U.S.C. 114(f)(5)(E)(i)) that

(1) Has obtained a compulsory license under 17 U.S.C. 112(e) and 114 and the implementing regulations therefor to make Eligible Transmissions and related ephemeral recordings;

(2) Complies with all applicable provisions of Sections 112(e) and 114 and applicable regulations;

(3) Is directly operated by, or is affiliated with and officially sanctioned by, and the digital audio transmission operations of which are staffed substantially by students enrolled at, a domestically accredited primary or secondary school, college, university or other post-secondary degree-granting educational institution;

(4) Is not a ''public broadcasting entity'' (as defined in 17 U.S.C. 118(g)) qualified to receive funding from the Corporation for Public Broadcasting pursuant to the criteria set forth in 47 U.S.C. 396; and

(5) Takes affirmative steps not to make total transmissions in excess of 159,140 Aggregate Tuning Hours on any individual channel or station in any month, if in any previous calendar year it has made total transmissions in excess of 159,140 Aggregate Tuning Hours on any individual channel or station in any month.

* * * * *

■ 4. Revise § 380.22 to read as follows:

§ 380.22 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

(a) *Minimum fee for eligible Noncommercial Educational Webcasters.* Each Noncommercial Educational Webcaster that did not exceed 159,140 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and does not expect to make total transmissions in excess of 159,140 Aggregate Tuning Hours on any individual channel or station in any calendar month during the applicable calendar year shall pay an annual, nonrefundable minimum fee of $500 (the ''Minimum Fee'') for each of its individual channels, including each of its individual side channels, and each of its individual stations, through which (in each case) it makes Eligible Transmissions, for each calendar year it makes Eligible Transmissions subject to this subpart. For clarity, each individual stream (e.g., HD radio side channels, different stations owned by a single licensee) will be treated separately and be subject to a separate minimum. The Minimum Fee shall constitute the annual per channel or per station royalty for all Eligible Transmissions totaling not more than 159,140 Aggregate Tuning Hours in a month on any individual channel or station, and for Ephemeral Recordings to enable such Eligible Transmissions. In addition, a Noncommercial Educational Webcaster electing the reporting waiver described in § 380.23(g)(1), shall pay a $100 annual fee (the ''Proxy Fee'') to the Collective.

(b) *Consequences of unexpectedly exceeding ATH cap.* In the case of a Noncommercial Educational Webcaster eligible to pay royalties under paragraph (a) that unexpectedly makes total transmissions in excess of 159,140 Aggregate Tuning Hours on any individual channel or station in any calendar month during the applicable calendar year:

(1) The Noncommercial Educational Webcaster shall, for such month and the remainder of the calendar year in which such month occurs, pay royalties in accordance, and otherwise comply, with the provisions of Part 380 Subpart A applicable to noncommercial webcasters;

(2) The Minimum Fee paid by the Noncommercial Educational Webcaster for such calendar year will be credited to the amounts payable under the provisions of Part 380 Subpart A applicable to noncommercial webcasters; and

(3) The Noncommercial Educational Webcaster shall, within 45 days after the end of such month, notify the Collective that it has made total transmissions in excess of 159,140 Aggregate Tuning Hours on a channel or station in a month; pay the Collective any amounts for such month due under the provisions of Part 380 Subpart A applicable to noncommercial webcasters; and provide the Collective a statement of account pursuant to Part 380 Subpart A.

(c) *Royalties for other Noncommercial Educational Webcasters.* A Noncommercial Educational Webcaster that is not eligible to pay royalties under paragraph (a) shall pay royalties in accordance, and otherwise comply, with the provisions of Part 380 Subpart A applicable to noncommercial webcasters.

(d) *Estimation of performances.* In the case of a Noncommercial Educational Webcaster that is required to pay royalties under paragraph (b) or (c) on a per-performance basis, that is unable to calculate actual total performances, and that is not required to report actual total performances under § 380.23(g)(3), the Noncommercial Educational Webcaster may pay its applicable royalties on an ATH basis, provided that the Noncommercial Educational Webcaster shall pay such royalties at the applicable per-performance rates based on the assumption that the number of sound recordings performed is 12 per hour. The Collective may distribute royalties paid on the basis of ATH hereunder in accordance with its generally applicable methodology for distributing royalties paid on such basis. In addition, and for the avoidance of doubt, a Noncommercial Educational Webcaster offering more than one channel or station shall pay per-performance royalties on a per-channel or -station basis.

(e) *Ephemeral royalty.* The royalty payable under 17 U.S.C. 112(e) for any ephemeral reproductions made by a Noncommercial Educational Webcaster is deemed to be included within the royalty payments set forth in paragraphs (a) through (c) of this section and to equal 5% of the total royalties payable under such paragraphs.

■ 5. Amend § 380.23 by revising paragraphs (c), (d), intro paragraph (f), (f)(2), (f)(4), (f)(9), (g)(1), and (g)(3) to read as follows:

§ 380.23 Terms for making payment of royalty fees and statements of account.

* * * * *

(c) *Minimum fee.* Noncommercial Educational Webcasters shall submit the Minimum Fee, and Proxy Fee if applicable, accompanied by a statement of account, by January 31st of each calendar year, except that payment of the Minimum Fee, and Proxy Fee if applicable, by a Noncommercial Educational Webcaster that was not making Eligible Transmissions or Ephemeral Recordings pursuant to the licenses in 17 U.S.C. 114 and/or 17 U.S.C. 112(e) as of said date but begins doing so thereafter shall be due by the 45th day after the end of the month in which the Noncommercial Educational Webcaster commences doing so. At the same time the Noncommercial Educational Webcaster must identify all its stations making Eligible Transmissions and identify which of the reporting options set forth in paragraph (g) of this section it elects for the relevant year (provided that it must be eligible for the option it elects).

(d) [Reserved]

* * * * *

(f) *Statements of account.* Any payment due under § 380.22(a) shall be accompanied by a corresponding statement of account on a form provided by the Collective. A statement of account shall contain the following information:

* * *

(2) [Reserved]

* * *

(4) The signature of a duly authorized representative of the applicable educational institution;

* * *

(9) A statement to the following effect:

I, the undersigned duly authorized representative of the applicable educational institution, have examined this statement of account; hereby state that it is true, accurate, and complete to my knowledge after reasonable due diligence; and further certify that the licensee entity named herein qualifies as a Noncommercial Educational Webcaster for the relevant year, and did not exceed 159,140 total ATH in any month of the prior year for which the Noncommercial Educational Webcaster did not submit a statement of account and pay any required additional royalties.

(g)* * *

(1) *Reporting waiver.* In light of the unique business and operational circumstances with respect to Noncommercial Educational Webcasters, and for the purposes of this subpart only, a Noncommercial Educational Webcaster that did not exceed 80,000 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and that does not expect to exceed 80,000 total ATH for any individual channel or station for any calendar month during the applicable calendar year may elect to pay to the Collective a nonrefundable, annual Proxy Fee of $100 in lieu of providing reports of use for the calendar year pursuant to the regulations § 370.4 of this chapter. In addition, a Noncommercial Educational Webcaster that unexpectedly exceeded 80,000 total ATH on one or more channels or stations for more than one month during the immediately preceding calendar year may elect to pay the Proxy Fee and receive the reporting waiver described in paragraph (g)(1) of this section during a calendar year, if it implements measures reasonably calculated to ensure that it will not make Eligible Transmissions exceeding 80,000 total ATH during any month of that calendar year. The Proxy Fee is intended to defray the Collective's costs associated with this reporting waiver, including development of proxy usage data. The Proxy Fee shall be paid by the date specified in paragraph (c) of this section for paying the Minimum Fee for the applicable calendar year and shall be accompanied by a certification on a form provided by the Collective, signed by a duly authorized representative of the applicable educational institution, stating that the Noncommercial Educational Webcaster is eligible for the Proxy Fee option because of its past and expected future usage and, if applicable, has implemented measures to ensure that it will not make excess Eligible Transmissions in the future.

* * *

(3) *Census-basis reports.* If any of the following three conditions is satisfied, a Noncommercial Educational Webcaster must report pursuant to paragraph (g)(3) of this section:

(i) The Noncommercial Educational Webcaster exceeded 159,140 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year;

(ii) The Noncommercial Educational Webcaster expects to exceed 159,140 total ATH for any individual channel or station for any calendar month in the applicable calendar year; or

(iii) The Noncommercial Educational Webcaster otherwise does not elect to be subject to paragraphs (g)(1) or (2) of this section.

A Noncommercial Educational Webcaster required to report pursuant to paragraph (g)(3) of this section shall provide reports of use to the Collective quarterly on a census reporting basis in accordance with § 370.4 of this chapter, except that, notwithstanding § 370.4(d)(2), such a Noncommercial Educational Webcaster shall not be required to include ATH or actual total performances, and may in lieu thereof provide channel or station name and play frequency, during the first calendar year it reports in accordance with paragraph (g)(3) of this section. For the avoidance of doubt, after a Noncommercial Educational Webcaster has been required to report in accordance with paragraph (g)(3) of this section for a full calendar year, it must thereafter include ATH or actual total performances in its reports of use. All reports of use under paragraph (g)(3) of this section shall be submitted to the Collective no later than the 45th day after the end of each calendar quarter.

* * * * *

Dated: October 29, 2014.

Jesse M. Feder,

Copyright Royalty Judge.

[FR Doc. 2014–26222 Filed 11–4–14; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2014–0733; FRL–9918–51–OSWER]

National Oil and Hazardous Substances Pollution Contingency Plan; Technical Amendment To Update Data Management System Nomenclature

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Effective January 31, 2014 the EPA Superfund program decommissioned the Comprehensive Environmental Response Compensation and Liability Act Information System (CERCLIS) and adopted a new, more comprehensive data management system. The new data management system, the Superfund Enterprise Management System (SEMS), serves as a more powerful, integrated platform. Consistent with this action, this proposed rule proposes to make appropriate conforming terminological changes to our regulations. This proposed rule also proposes to add a minor clarification to the description of the remedial preliminary assessment.

DATES: Written comments must be received by December 5, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2014–0733, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: superfund.docket@epa.gov*
- *U.S. Postal Mail:* U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Superfund Docket, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–SFUND–2014–0733. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2014–0733. 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*

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, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Superfund Docket (Docket ID No. EPA–HQ–SFUND–2014–0733). This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Superfund Docket telephone number is (202) 566–0276. EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jennifer Hovis at (703) 603–8888 (*hovis.jennifer@epa.gov*), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460–0002, Mail Code 5202P.

SUPPLEMENTARY INFORMATION:

I. Why is EPA issuing this proposed rule?

This document proposes to amend the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) to make nonsubstantive changes to reflect new data management system nomenclature resulting from the Superfund program's transition from CERCLIS to SEMS. This document also adds minor clarifying text to a description in the NCP that will make the regulations more accurate. We have published a direct final rule to promulgate the above changes in the ''Rules and Regulations'' section of today's **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will issue a timely withdrawal of the direct final rule and it will not take effect. We would address all relevant public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document. Comments are only being solicited on the deletion of reference to CERCLIS and the addition of clarifying text to the remedial preliminary assessment description. Therefore, comments are not being requested on other unmodified sections of the NCP nor on EPA's internal agency management decision to update the Superfund data management system, and such comments will not be considered if submitted.

II. What does this amendment do?

This rule proposes to revise the Operational Abbreviations section (40 CFR 300.4(b)) and the Definitions section (40 CFR 300.5) of the NCP to reflect terminological changes necessary for consistency with EPA's transition from CERCLIS as the Superfund program's planning and tracking data management system to SEMS. This rule also amends the Remedial preliminary assessment description (40 CFR 420(b)) to clarify that the Preliminary Assessment (PA) is performed on only those sites that have been entered into the SEMS remedial assessment active inventory.

III. Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the discussion in the ''Statutory and Executive Order Reviews'' section to the preamble for the direct final rule that is published in the Rules and Regulations section of this **Federal Register**.

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), this proposed action is not a ''significant regulatory action'' and is therefore not subject to OMB review. This action merely deletes an obsolete reference to a retired information system and adds minor clarifying text to a description in the NCP. This action does not impose any requirements on any entity, including small entities. Therefore, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), after considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 28, 2014.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2014–26159 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–1

RIN 1250–AA03

Government Contractors, Requirement To Report Summary Compensation Data on Employee Compensation

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of proposed rulemaking and extension of comment period.

SUMMARY: On August 8, 2014, the Office of Federal Contract Compliance Programs (OFCCP) published a notice of proposed rulemaking (NPRM) in the **Federal Register**. This NPRM proposes amending one of the implementing regulations for Executive Order 11246, Equal Employment Opportunity, which sets forth the reporting obligations of Federal contractors and subcontractors. This NPRM proposes amending the regulation by adding a requirement that certain Federal contractors and subcontractors supplement their Employer Information Report (EEO–1 Report) with summary information on compensation paid to employees, as contained in the Form W–2 Wage and Tax Statement (W–2) forms, by sex, race, ethnicity, and specified job categories, as well as other relevant data points such as hours worked, and the number of employees.

This document extends the comment period for the proposed rule for sixty (60) days. You do not need to resubmit your comment if you have already commented on the proposed rule. Should you choose to do so, you can submit additional or supplemental comments. OFCCP will consider all comments received from the date of publication of the proposed rule through the close of the extended comment period.

DATES: The comment period for the NPRM published on August 8, 2014,

scheduled to close on November 6, 2014, is extended until January 5, 2015.

ADDRESSES: You may submit comments, identified by RIN 1250–AA03, by any of the following methods:

- Federal eRulemaking Portal: *www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 693–1304 (for comments of six pages or fewer).
- Mail: Debra A. Carr, Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Debra A. Carr, Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: (202) 693–0103.

SUPPLEMENTARY INFORMATION: On August 8, 2014, OFCCP published a proposed rule entitled ''Government Contractors, Requirement to Report Summary Compensation Data on Employee Compensation'' (79 FR 46562). OFCCP was to receive comments on this NPRM on or before November 6, 2014.

OFCCP, after considering a request to extend the comment period by an additional ninety (90) days, determined that it is appropriate to provide an additional 60-day period for comment on the proposed regulation.

OFCCP is aware that multiple associations and organizations are conducting surveys of their membership to gather information relevant to the proposals and analysis in the NPRM. These surveys, in some instances, may not be concluded and their results tabulated during the initial 90-day comment period. In addition, the NPRM contained numerous references to reports, studies, articles or books, all of which are publically available. One of these references, though available, may be more difficult to obtain than the others. Therefore, upon request, OFCCP will make the NPRM references available for review during normal business hours at the Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue NW., Washington, DC 20210. To schedule an appointment to review the references, please contact OFCCP at the telephone numbers listed above.

Extension of Comment Period

OFCCP determined that the public would benefit from additional time to review the potential impact of the proposed requirements. Therefore, to allow the public sufficient time to review and comment on the NPRM, OFCCP is extending the comment period until January 5, 2015.

Signed in Washington, DC, this 30th date of October 2014.

Patricia Shiu,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 2014–26223 Filed 11–4–14; 8:45 am]

BILLING CODE 4510–CM–P

Notices

Federal Register

Vol. 79, No. 214

Wednesday, November 5, 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

Natural Resources Conservation Service

[Docket No. NRCS–2014–0013]

Notice of Proposed Changes to Section I of the Iowa, Minnesota, North Dakota, and South Dakota State Technical Guides

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice of availability of proposed changes in the NRCS State specific Field Office Technical Guides for review and comment.

SUMMARY: Notice is hereby given of the intention by the NRCS State Conservationists for Iowa, Minnesota, North Dakota, and South Dakota to issue revisions to Section I of their State Technical Guide pertaining to the State Offsite Methods used in completing wetland determinations. In each of the listed States, NRCS is proposing to issue its State Offsite Methods which will replace existing State wetland mapping conventions. The State Offsite Methods will be used as part of the technical documents and procedures to conduct wetland determinations on agriculture land as part of the Food Security Act of 1985 (as amended). Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 requires NRCS to make available for public review and comment all proposed revisions to standards and procedures used to carry out Highly Erodible Land and wetland provisions of the law.

DATES: *Effective Date:* This is effective November 5, 2014.

Comment Date: Submit comments on or before February 3, 2015. Final versions of these new or revised State Offsite Methods will be adopted after the close of the 90-day period and after consideration of all comments.

ADDRESSES: Comments should be submitted for each specific State, identified by Docket Number NRCS–2014–0013, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail or hand-delivery:* Submit state specific comments to the appropriate State contact. The contact information for each State is shown below.
- NRCS will post all comments on *http://www.regulations.gov*. In general, personal information provided with comments will be posted. If your comment includes your address, telephone number, email, or other personal identifying information, your comments, including personal information, may be available to the public. You may ask in your comment that your personal identifying information be withheld from public view, but this cannot be guaranteed.

FOR FURTHER INFORMATION CONTACT: NRCS State Conservationist specific to your response:

- Iowa, Jay Mar, State Conservationist, NRCS, 210 Walnut Street, Room 693, Des Moines, Iowa 50309–2180, telephone: (515) 284–4769, email: *Jay.mar@ia.usda.gov*; Iowa Web site: *http://www.nrcs.usda.gov/wps/portal/nrcs/site/ia/home/*
- Minnesota, Don Baloun, State Conservationist, NRCS, Suite 600, 375 Jackson Street, St. Paul, Minnesota 55101–1854, telephone: (651) 602–7854, email: *Don.baloun@mn.usda.gov*; Minnesota Web site: *http://www.nrcs.usda.gov/wps/portal/nrcs/site/mn/home/*
- North Dakota, Mary Podoll, State Conservationist, NRCS, 220 East Rosser Avenue, Bismarck, North Dakota 58502–1458, telephone: 701–530–2003, email: *mary.podoll@nd.usda.gov*, North Dakota Web site *http://www.nrcs.usda.gov/wps/portal/nrcs/site/nd/home/*
- South Dakota, Jeff Zimprich, State Conservationist, NRCS, Room 203, 200 4th Street SW., Huron, South Dakota 57350, telephone: (605) 352–1200, email: *Jeff.zimprich@sd.usda.gov,* South Dakota Web site: *http://www.nrcs.usda.gov/wps/portal/nrcs/site/sd/home/*

Electronic copies of the proposed revised offsite methods are available through *http://www.regulations.gov*, by accessing Docket No. NRCS–2014–0013. Alternatively, copies can be downloaded or printed from the State specific Web site. Requests for paper versions or inquiries may be directed to the specific State Conservationist.

Signed this 31st day of October, 2014, in Washington, DC.

Jason A. Weller,

Chief, Natural Resources Conservation Service.

[FR Doc. 2014–26294 Filed 11–4–14; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1954]

Designation of New Grantee; Foreign-Trade Zone 245, Decatur, Illinois

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

The Foreign-Trade Zones (FTZ) Board (the Board) has considered the application (docketed 7/1/2014) submitted by the Board of Park Commissioners, Decatur Park District, grantee of FTZ 245, requesting reissuance of the grant of authority for said zone to the Economic Development Corporation of Decatur & Macon County, which has accepted such reissuance subject to approval by the FTZ Board. Upon review, the Board finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest.

Therefore, the Board approves the application and recognizes the Economic Development Corporation of Decatur & Macon County as the new grantee for Foreign-Trade Zone 245, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Signed at Washington, DC, this 28th day of October 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2014–26276 Filed 11–4–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–78–2014]

Foreign-Trade Zone (FTZ) 83—Huntsville, Alabama, Notification of Proposed Production Activity, General Electric Company, (Household Refrigerators), Decatur, Alabama

The Huntsville-Madison County Airport Authority, grantee of FTZ 83, submitted a notification of proposed production activity to the FTZ Board on behalf of General Electric Company (GE), located in Decatur, Alabama. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 22, 2014.

A separate request for subzone designation at the GE facility was submitted and will be processed under Section 400.31 of the FTZ Board's regulations. The facility is used for the production of household refrigerators. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt GE from customs duty payments on the foreign status components used in export production. On its domestic sales, GE would be able to choose the duty rate during customs entry procedures that applies to household refrigerators and related parts (free) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: ABS resins; plastic water conduits/fittings/gaskets/grommets/ties/spacers/clips; rubber grommets/o-rings/seals/bumper lids/bumper grommets; self-tapping screws; rivets; steel bolts/screws; metal hinges/brackets/plates; compressors; evaporator fan assemblies; fan blades/housings; parts of refrigerators (actuators, brackets, baseplates, caps, case assemblies, case backs, clips, condenser assemblies, door assemblies, drains, gaskets, gussets, handles, air diverters, housing controls, ice maker assemblies, liners, controls, mullion assemblies, glass shelving, shields); water filters; filter dryers; filter valves; valve and tube assemblies; AC/DC motors; inverters; wiring harnesses; motor starters; electronic AC switches; lamp plugs/sockets; electronic control boards; printed circuit assemblies; lamps; light dispensers; wiring harnesses; and, thermostats (duty rate ranges from free to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is December 15, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: October 29, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–26305 Filed 11–4–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–918]

Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: The Department of Commerce (the ''Department'') is conducting the fifth administrative review of the antidumping duty order on steel wire garment hangers from the People's Republic of China (''PRC'').[1] The Department selected two respondents for individual review, Shanghai Wells,[2] and Ningbo Dasheng Hanger Ind. Co., Ltd., (''Ningbo Dasheng''). We selected four additional companies as mandatory respondents, but, they did not participate.[3] The Department preliminarily determines that Shanghai Wells sold subject merchandise in the United States at prices below normal value during the period of review (''POR''), October 1, 2012, through September 30, 2013. In addition, we preliminary determine Ningbo Dasheng, and the Non-Responsive Mandatories failed to cooperate by not acting to the best of their ability to comply with the Department's request for information, warranting the application of facts otherwise available with adverse inferences, pursuant to sections 776(a)–(b) of the Tariff Act of 1930, as amended (''Act''). As a part of the application of adverse facts available (''AFA''), we are treating Ningbo Dasheng as part of the PRC-wide entity. Additionally, we determine that the four other companies that we selected as mandatory respondents but which did not cooperate are also part of the PRC-wide entity.[4] If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results.

DATES: *Effective Date:* November 5, 2014.

FOR FURTHER INFORMATION CONTACT: Alexis Polovina or Josh Startup, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4295 or (202) 482–5260, respectively.

SUPPLEMENTARY INFORMATION:

[1] *See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China,* 73 FR 58111 (October 6, 2008) (''*Order*'').

[2] The Department previously found that Shanghai Wells Hanger Co., Ltd., Hong Kong Wells Ltd. (''HK Wells'') and Hong Kong Wells Ltd. (USA) (''Wells USA'') are affiliated and that Shanghai Wells Hanger Co., Ltd. and HK Wells comprise a single entity (collectively, ''Shanghai Wells''). Because there were no changes in this review to the facts that supported that decision, we continue to find Shanghai Wells Hanger Co., Ltd., HK Wells, and USA Wells are affiliated and that Shanghai Wells Hanger Co., Ltd. and HK Wells comprise a single entity. *See Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review,* 75 FR 68758, 68761 (November 9, 2010), unchanged in *First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 27994, 27996 (May 13, 2011).

[3] These four entities are: (1) Shangyu Baoxiang Metal Manufactured Co., Ltd. (''Shangyu Baoxiang''), (2) Shaoxing Dingli Metal Clotheshorse Co., Ltd., (''Shaoxing Dingli'') (3) Zhejiang Lucky Cloud Hanger Co., Ltd (''Lucky Cloud''), and (4) Shaoxing Tongzhou Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., and Shaoxing Gangyuan Metal Manufacture (collectively, ''the Shaoxing Entity''), (''Non-Responsive Mandatories''). *See* the Department's memorandum titled ''Steel Wire Garment Hangers from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2012–2013 Antidumping Duty Administrative Review,'' (''Preliminary Decision Memorandum''), dated concurrently with these results and hereby adopted by this notice.

[4] *See PRC-Wide Entity* section *infra.*

Scope of the Order

The product covered by the order is steel wire garment hangers. This product is classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 7326.20.0020, 7323.99.9060, and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description remains dispositive.[5]

PRC-Wide Entity

The four Non-Responsive Mandatories failed to respond to the Department's requests for information and/or declined to participate in this review. These companies, therefore, are not eligible for separate rate status.[6] Ningbo Dasheng failed to cooperate by not acting to the best of its ability to comply with a request for information, and therefore, is also not eligible for a separate rate. Accordingly, the Department preliminarily finds that the PRC-wide entity includes these companies. Furthermore, because necessary information is not available on the record and the PRC-Wide entity (including the None-Responsive Mandatories and Ningbo Dasheng) withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding, the Department relied on facts available.[7] Additionally, the Department finds that the PRC-Wide entity failed to cooperate by not acting to the best of its ability to comply with a request for information.[8] Therefore, pursuant to section 776(b) of the Act, the Department used an adverse inference when selecting from among the facts otherwise available.[9] Thus, the Department relied on AFA in order to determine a margin for the PRC-wide entity, pursuant to sections 776(a)(1), 776(a)(2)(A), (B), (C) and 776(b) of the Act.[10]

During the review, 23 companies for which a review was requested did not file a separate rate application or certification, nor did they file a no shipments certification.[11] Accordingly, because these companies did not demonstrate their eligibility for a separate rate, the Department preliminarily determines that they are also part of the PRC-wide entity.

Preliminary Determination of No Shipments

On January 31, 2014, Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co., Ltd. filed no shipment certifications.[12] On February 6, 2014, the Department sent inquiries to CBP to determine whether CBP entry data are consistent with Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co., Ltd.'s no shipments certifications and received no information contrary to that statement from CBP. As such, we preliminarily determine that Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co., Ltd. had no shipments during the POR.[13]

In addition, the Department finds that consistent with its announced refinement to its assessment practice in NME cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to Hangzhou Yingqing Material Co., Ltd. and Hangzhou Qingqing Mechanical Co., Ltd., and issue appropriate instructions to CBP based on the final results of the review.[14]

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Act. We calculated constructed export prices and export prices in accordance with section 772 of the Act. Because the PRC is a nonmarket economy within the meaning of section 771(18) of the Act, we calculated normal value in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice.[15] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and to all parties in the Central Records Unit (''CRU''), Room 7046 of the main Department of Commerce building. In addition, parties can obtain a complete version of the Preliminary Decision Memorandum on the Internet at *http://trade.gov/enforcement/frn/index.html*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

Regarding the administrative review, the Department preliminarily determines that the following weighted-average dumping margins exist for the period October 1, 2012, through September 30, 2013:

Exporter	Weighted-average dumping margin (percent)
Shanghai Wells Hanger Co., Ltd.[16]	14.53
PRC-Wide Entity	187.25

Disclosure, Public Comment and Opportunity To Request a Hearing

The Department will disclose the calculations used in its analysis to parties in this review within five days of the date of publication of this notice.[17]

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[18] Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[19] Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue

[5] *See* the Preliminary Decision Memorandum for a complete description of the scope of the *Order*.

[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 72630, 72631 (December 3, 2013).

[7] *See* sections 776(a)(1) and (2)(A)–(C) of the Act.

[8] *See* section 776(b) of the Act.

[9] *See also* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, Vol. 1, at 870 (1994).

[10] *See* the Preliminary Decision Memorandum at the sections pertaining to ''PRC-Wide Entity'' and ''Selection of Adverse Facts Available (''AFA'') Rate'' for a discussion of the AFA rate.

[11] *See* the Preliminary Decision Memorandum at the sections pertaining to ''PRC-Wide Entity.''

[12] *See* letter from Hangzhou Yingqing Material Co., Ltd., and Hangzhou Qingqing Mechanical Co., Ltd., regarding, Resubmit No Sales Certification, dated January 31, 2014.

[13] *See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Flat Products From Brazil: Notice of Rescission of Antidumping Duty Administrative Review,* 75 FR 65453, 65454 (October 25, 2010); *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Notice of Intent to Rescind Administrative Review,* 74 FR 3559, 3560 (January 21, 2009); and *Certain In-Shell Raw Pistachios from Iran: Rescission of Antidumping Duty Administrative Review,* 73 FR 9292, 9293 (February 20, 2008).

[14] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) and the ''Assessment Rates'' section, below.

[15] *See* Preliminary Decision Memorandum.

[16] Shanghai Wells consists of Shanghai Wells Hanger Co., Ltd., and Hong Kong Wells Ltd.

[17] *See* 19 CFR 351.224(b).

[18] *See* 19 CFR 351.309(c)(1)(ii).

[19] *See* 19 CFR 351.309(d)(1)-(2).

(2) a brief summary of the argument, not to exceed five pages, and (3) a table of authorities.[20]

Any interested party may request a hearing within 30 days of publication of this notice.[21] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the case and rebuttal briefs.[22] If a party requests a hearing, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing.

The Department intends to issue the final results of this review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[23] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of review.

In these preliminary results, the Department applied the assessment rate calculation method adopted in *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.[24]

Where the respondent reported reliable entered values, we calculated importer- (or customer) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[25] Where the Department calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.[26] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[27] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[28]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above, the cash deposit rate will be established in the final results of these reviews (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 187.25 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 31, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Attachment—List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Respondent Selection
3. Scope of the Order
4. Affiliations
5. Preliminary Determination of No Shipments
6. PRC-Wide Entity
7. NME Country Status
8. Separate Rates
9. Separate Rates Recipients
10. Application of Facts Available and Use of Adverse Inference
11. Application of Total AFA to the PRC-Wide Entity
12. Selection of AFA Rate
13. Corroboration of Information
14. Surrogate Country and Surrogate Value Data
15. Surrogate Country
16. Date of Sale
17. Determination of Comparison Method
18. Results of Differential Pricing Analysis
19. U.S. Price
20. Value-Added Tax
21. Normal Value
22. Factor Valuations
23. Company Specific Issues
24. Currency Conversion
25. Conclusion

[FR Doc. 2014–26277 Filed 11–4–14; 8:45 a.m.]

BILLING CODE 3510–DS–P

[20] *See* 19 CFR 351.309(c) and (d).

[21] *See* 19 CFR 351.310(c).

[22] *Id.*

[23] *See* 19 CFR 351.212(b).

[24] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012) ("*Final Modification for Reviews*").

[25] *See* 19 CFR 351.212(b)(1).

[26] *Id.*

[27] *Id.*

[28] *See* 19 CFR 351.106(c)(2).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Request for Nominations for Members To Serve on National Institute of Standards and Technology Federal Advisory Committees

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) invites and requests nomination of individuals for appointment to eight existing Federal Advisory Committees: Board of Overseers of the Malcolm Baldrige National Quality Award, Judges Panel of the Malcolm Baldrige National Quality Award, Information Security and Privacy Advisory Board,

Manufacturing Extension Partnership Advisory Board, National Construction Safety Team Advisory Committee, Advisory Committee on Earthquake Hazards Reduction, NIST Smart Grid Advisory Committee, and Visiting Committee on Advanced Technology. NIST will consider nominations received in response to this notice for appointment to the Committees, in addition to nominations already received. Registered Federal lobbyists may not serve on NIST Federal Advisory Committees.

DATES: Nominations for all committees will be accepted on an ongoing basis and will be considered as and when vacancies arise.

ADDRESSES: See below.

SUPPLEMENTARY INFORMATION:

Board of Overseers of the Malcolm Baldrige National Quality Award

ADDRESSES: Please submit nominations to Robert Fangmeyer, Director, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via fax to 301–975–4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary, may be found at *http://www.nist.gov/baldrige/community/overseers.cfm.*

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program and Designated Federal Officer, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–4781; fax 301–975–4967; or via email at *robert.fangmeyer@nist.gov.*

Committee Information

The Board of Overseers of the Malcolm Baldrige National Quality Award (Board) was established in accordance with 15 U.S.C. 3711a(d)(2)(B), pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Board shall review the work of the private sector contractor(s), which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Malcolm Baldrige National Quality Award (Award). The Board will make such suggestions for the improvement of the Award process as it deems necessary.

2. The Board shall make an annual report on the results of Award activities to the Director of NIST, along with its recommendations for the improvement of the Award process.

3. The Board will function solely as an advisory committee under the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Board will report to the Director of NIST.

Membership

1. The Board will consist of approximately eleven members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance, and for their preeminence in the field of organizational performance excellence. There will be a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Board will include members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members will also be chosen who have broad experience in for-profit and nonprofit areas.

2. Board members will be appointed by the Secretary of Commerce for three-year terms and will serve at the discretion of the Secretary. All terms will commence on March 1 and end on February 28 of the appropriate years, or February 29 in a leap year.

Miscellaneous

1. Members of the Board shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Board will meet annually, except that additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are usually one day in duration. Historically, the Board has met twice per year.

3. Board meetings are open to the public. Board members do not have access to classified or proprietary information in connection with their Board duties.

Nomination Information:

1. Nominations are sought from the private and public sector as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, educational institutions, health care providers, and nonprofit organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on Federal advisory boards and Federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Board, and will actively participate in good faith in the tasks of the Board. Besides participation at meetings, it is desired that members be able to devote the equivalent of seven days between meetings to either developing or researching topics of potential interest, and so forth, in furtherance of their Board duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Board membership.

Judges Panel of the Malcolm Baldrige National Quality Award

ADDRESSES: Please submit nominations to Robert Fangmeyer, Director, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via fax to 301–975–4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary, may be found at *http://patapsco.nist.gov/BoardofExam/Examiners_Judge2.cfm.*

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program and Designated Federal Officer, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–4781; fax 301–975–4967; or via email at *robert.fangmeyer@nist.gov.*

Committee Information

The Judges Panel of the Malcolm Baldrige National Quality Award (Panel) was established in accordance with 15 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Panel will ensure the integrity of the Malcolm Baldrige National Quality Award (Award) selection process. Based on a review of results of examiners' scoring of written applications, Panel members will vote on which applicants merit site visits by

examiners to verify the accuracy of quality improvements claimed by applicants. The Panel will also review recommendations from site visits, and recommend Award recipients.

2. The Panel will ensure that individual judges will not participate in the review of applicants as to which they have any potential conflict of interest.

3. The Panel will function solely as an advisory body, and will comply with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Panel will report to the Director of NIST.

Membership

1. The Panel will consist of approximately nine, and not more than twelve, members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. There will be a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Panel will include members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members will also be chosen who have broad experience in for-profit and nonprofit areas.

2. Panel members will be appointed by the Secretary of Commerce for three-year terms and will serve at the discretion of the Secretary. All terms will commence on March 1 and end on February 28 of the appropriate years, or February 29 in a leap year.

Miscellaneous

1. Members of the Panel shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Panel will meet three times per year. Additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are usually one to four days in duration. In addition, each Judge must attend an annual three-day Examiner training course.

3. When approved by the Department of Commerce Chief Financial Officer and Assistant Secretary for Administration, Panel meetings are closed to the public.

Nomination Information:

1. Nominations are sought from all U.S. service and manufacturing industries, education, health care, and nonprofits as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, educational institutions, and nonprofit organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Panel, and will actively participate in good faith in the tasks of the Panel. Besides participation at meetings, it is desired that members be either developing or researching topics of potential interest, reading Baldrige applications, and so forth, in furtherance of their Panel duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Panel membership.

Information Security and Privacy Advisory Board (ISPAB)

ADDRESSES: Please submit nominations to Annie Sokol, NIST, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930. Nominations may also be submitted via fax to 301–975–8670, Attn: ISPAB Nominations. Additional information regarding the ISPAB, including its charter and current membership list, may be found on its electronic home page at *http://csrc.nist.gov/groups/SMA/ispab/index.html.*

FOR FURTHER INFORMATION CONTACT: Annie Sokol, ISPAB Designated Federal Officer (DFO), NIST, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930; telephone 301–975–2006; fax: 301–975–8670; or via email at *annie.sokol@nist.gov.*

Committee Information

The ISPAB (Committee or Board) was originally chartered as the Computer System Security and Privacy Advisory Board by the Department of Commerce pursuant to the Computer Security Act of 1987 (Pub. L. 100–235). The E-Government Act of 2002 (Pub. L. 107–347, Title III), amended Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), including changing the Committee's name, and the charter was amended accordingly.

Objectives and Duties

1. The Board will identify emerging managerial, technical, administrative, and physical safeguard issues relative to information security and privacy.

2. The Board will advise the NIST and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal Government information systems, including thorough review of proposed standards and guidelines developed by NIST.

3. The Board shall report to the Director of NIST.

4. The Board reports annually to the Secretary of Commerce, the Director of OMB, the Director of the National Security Agency, and the appropriate committees of the Congress.

5. The Board will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Membership

1. The Director of NIST will appoint the chairperson and the members of the ISPAB, and members serve at the discretion of the NIST Director. Members will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

2. The ISPAB will consist of a total of twelve members and a Chairperson.

- The Board will include four members from outside the Federal Government who are eminent in the information technology industry, at least one of whom is representative of small or medium sized companies in such industries.
- The Board will include four members from outside the Federal Government who are eminent in the fields of information technology, or related disciplines, but who are not employed by or representative of a producer of information technology.
- The Board will include four members from the Federal Government who have information system management experience, including experience in information security and privacy, at least one of whom shall be from the National Security Agency.

Miscellaneous

1. Members of the Board, other than full-time employees of the Federal Government, will not be compensated for their service, but will, upon request, be allowed travel expenses pursuant to

5 U.S.C. 5701 *et seq.,* while otherwise performing duties at the request of the Board Chairperson, while away from their homes or a regular place of business.

2. Meetings of the ISPAB are usually two to three days in duration and are usually held quarterly. ISPAB meetings are open to the public, including the press. Members do not have access to classified or proprietary information in connection with their ISPAB duties.

Nomination Information:

1. Nominations are being accepted in all three categories described above.

2. Nominees should have specific experience related to information security or privacy issues, particularly as they pertain to Federal information technology. Letters of nomination should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Also include (where applicable) current or former service on Federal advisory boards and any Federal employment. Each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the ISPAB, and that they will actively participate in good faith in the tasks of the ISPAB.

3. Besides participation at meetings, it is desired that members be able to devote a minimum of two days between meetings to developing draft issue papers, researching topics of potential interest, and so forth in furtherance of their ISPAB duties.

4. Selection of ISPAB members will not be limited to individuals who are nominated. Nominations that are received and meet the requirements will be kept on file to be reviewed as ISPAB vacancies occur.

5. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse ISPAB membership.

Manufacturing Extension Partnership (MEP) Advisory Board

ADDRESSES: Please submit nominations to Ms. Kari Reidy, NIST, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800. Nominations may also be submitted via fax to 301–963–6556. Additional information regarding MEP, including its charter may be found on its electronic home page at *http://www.nist.gov/mep/advisory-board.cfm.*

FOR FURTHER INFORMATION CONTACT: Ms. Kari Reidy, NIST, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800; telephone 301–975–4919, fax 301–963–6556; or via email at *Kari.Reidy@nist.gov.*

Committee Information

The MEP Advisory Board (Board) is authorized under Section 3003(d) of the America COMPETES Act (Pub. L. 110–69); codified at 15 U.S.C. 278k(e), as amended, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Board will provide advice on MEP programs, plans, and policies.

2. The Board will assess the soundness of MEP plans and strategies.

3. The Board will assess current performance against MEP program plans.

4. The Board will function solely in an advisory capacity, and in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

5. The Board shall transmit through the Director of NIST an annual report to the Secretary of Commerce for transmittal to Congress within 30 days after the submission to Congress of the President's annual budget request each year. The report shall address the status of the MEP program and comment on the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under 15 U.S.C. 278i(c) and (d).

Membership

1. The Board shall consist of 10 members, broadly representative of stakeholders, appointed by the Director of NIST. At least 2 members shall be employed by or on an advisory board for the MEP Centers, and at least 5 other members shall be from United States small businesses in the manufacturing sector. No member shall be an employee of the Federal Government.

2. The Director of NIST shall appoint the members of the Board. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. Board members serve at the discretion of the Director of NIST.

3. Committee members from the manufacturing industry and those representing specific stakeholder groups shall serve in a representative capacity. Committee members from the academic community shall serve as experts, will be considered Special Government Employees (SGEs), and will be subject to all ethical standards and rules applicable to SGEs.

4. The term of office of each member of the Board shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy. Any person who has completed two consecutive full terms of service on the Board shall thereafter be ineligible for appointment during the one-year period following the expiration of the second term.

Miscellaneous

1. Members of the Board will not be compensated for their services but will, upon request, be allowed travel and per diem expenses as authorized by 5 U.S.C. 5701 *et seq.,* while attending meetings of the Board or subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. The Board will meet at least three times a year. Additional meetings may be called by the Director of NIST or the Designated Federal Officer (DFO) or his or her designee.

3. Committee meetings are open to the public.

Nomination Information:

1. Nominations are being accepted in all categories described above.

2. Nominees should have specific experience related to manufacturing and industrial extension services. Letters of nomination should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Each nomination letter should state that the person agrees to the nomination and acknowledges the responsibilities of serving on the MEP Advisory Board.

3. Selection of MEP Advisory Board members will not be limited to individuals who are nominated. Nominations that are received and meet the requirements will be kept on file to be reviewed as Board vacancies occur.

4. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse MEP Advisory Board membership.

National Construction Safety Team (NCST) Advisory Committee

ADDRESSES: Please submit nominations to Tina Faecke, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604. Nominations may also be submitted via fax to 301–975–4032. Additional information regarding the NCST, including its charter may be found on its electronic home page at *http://www.nist.gov/el/disasterstudies/ncst.*

FOR FURTHER INFORMATION CONTACT: Tina Faecke, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–

8604, telephone 301–975–5911, fax 301–975–4032; or via email at *tina.faecke@nist.gov.*

Committee Information

The NCST Advisory Committee (Committee) was established in accordance with the National Construction Safety Team Act, Public Law 107–231 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall advise the Director of the NIST on carrying out the National Construction Safety Team Act (Act), review and provide advice on the procedures developed under section 2(c)(1) of the Act, and review and provide advice on the reports issued under section 8 of the Act.

2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. On January 1 of each year, the Committee shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes: (1) An evaluation of National Construction Safety Team (Team) activities, along with recommendations to improve the operation and effectiveness of Teams, and (2) an assessment of the implementation of the recommendations of Teams and of the Committee.

Membership

1. The Committee shall consist of not fewer than five nor more than ten members. Members shall reflect the wide diversity of technical disciplines and competencies involved in the National Construction Safety Teams investigations. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Construction Safety Teams.

2. The Director of the NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the Committee shall not be compensated for their services but may, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. § 5703.

2. Members of the Committee shall serve as Special Government Employees (SGEs), will be subject to the ethics standards applicable to SGEs, and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee shall meet face-to-face at least once per year. Additional meetings may be called whenever requested by the NIST Director or the Chair; such meetings may be in the form of telephone conference calls and/or videoconferences.

Nomination Information:

1. Nominations are sought from industry and other communities having an interest in the National Construction Safety Teams investigations.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the nominee agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Advisory Committee on Earthquake Hazards Reduction (ACEHR)

ADDRESSES: Please submit nominations to Tina Faecke, Management and Program Analyst, National Earthquake Hazards Reduction Program, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604. Nominations may also be submitted via fax to 301–975–4032 or email at *tina.faecke@nist.gov.* Additional information regarding the ACEHR, including its charter and executive summary may be found on its electronic home page at *http://www.nehrp.gov.*

FOR FURTHER INFORMATION CONTACT: Jack Hayes, Director, National Earthquake Hazards Reduction Program, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604, telephone 301–975–5640, fax 301–975–4032; or via email at *jack.hayes@nist.gov.*

Committee Information

The Advisory Committee on Earthquake Hazards Reduction (Committee) was established in accordance with the National Earthquake Hazards Reduction Program Reauthorization Act of 2004, Public Law 108–360 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee will act in the public interest to assess trends and developments in the science and engineering of earthquake hazards reduction, effectiveness of the National Earthquake Hazards Reduction Program (Program) in carrying out the activities under section (a)(2) of the Earthquake Hazards Reduction Act of 1977, as amended, (42 U.S.C. 7704(a)(2)), the need to revise the Program, the management, coordination, implementation, and activities of the Program.

2. The Committee will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall report to the Director of NIST at least once every two years on its findings of the assessments and its recommendations for ways to improve the Program. In developing recommendations, the Committee shall consider the recommendations of the United States Geological Survey (USGS) Scientific Earthquake Studies Advisory Committee (SESAC).

Membership

1. The Committee shall consist of not fewer than 11, nor more than 17 members. Members shall reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Earthquake Hazards Reduction Program.

2. The Director of NIST shall appoint the members of the Committee. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

3. The term of office of each member of the Committee shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy and that members

shall have staggered terms such that the Committee will have approximately one-third new or reappointed members each year.

Miscellaneous

1. Members of the Committee shall not be compensated for their services, but may, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. 5701 *et seq.*, while attending meetings of the Committee or subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs) and will be subject to the ethics standards applicable to SGEs, and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee members shall meet face-to-face at least once per year. Additional meetings may be called whenever requested by the NIST Director or the Chair; such meetings may be in the form of telephone conference calls and/or videoconferences.

4. Committee meetings are open to the public.

Nomination Information:

1. Members will be drawn from industry and other communities having an interest in the National Earthquake Hazards Reduction Program, such as, but not limited to, research and academic institutions, industry standards development organizations, state and local government, and financial communities, who are qualified to provide advice on earthquake hazards reduction and represent all related scientific, architectural, and engineering disciplines.

2. Any person who has completed two consecutive full terms of service on the Committee shall be ineligible for appointment for a third term during the two year period following the expiration of the second term.

3. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the nominee agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

4. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad based and diverse Committee membership.

NIST Smart Grid Advisory Committee

ADDRESSES: Please submit nominations to Mr. Cuong Nguyen, Smart Grid and Cyber-Physical Systems Program Office, NIST, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200. Nominations may also be submitted via email to *cuong.nguyen@nist.gov.* Information about the NIST Smart Grid Advisory Committee may be found at *http://www.nist.gov/smartgrid/committee.cfm.*

FOR FURTHER INFORMATION CONTACT: Mr. Cuong Nguyen, Smart Grid and Cyber-Physical Systems Program Office, NIST, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200; telephone 301–975–2254, fax 301–948–5668; or via email at *cuong.nguyen@nist.gov.*

Committee Information:

The NIST Smart Grid Advisory Committee (Committee) was established in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App and with the concurrence of the General Services Administration.

Objectives and Duties

1. The Committee shall advise the Director of the National Institute of Standards and Technology (NIST) in carrying out duties authorized by section 1305 of the Energy Independence and Security Act of 2007 (Pub. L. 110–140).

2. The Committee duties are solely advisory in nature in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

3. The Committee shall report to the Director of NIST.

4. The Committee shall provide input to NIST on the Smart Grid Standards, Priorities, and Gaps, on the overall direction, status and health of the Smart Grid implementation by the Smart Grid industry including identification of issues and needs, on Smart Grid Interoperability Panel activities and on the direction of research and standards activities.

5. Upon request of the Director of NIST, the Committee will prepare reports on issues affecting Smart Grid activities.

Membership

1. The Committee shall consist of no less than 9 and no more than 15 members. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting Smart Grid deployment and operations. Members shall reflect the wide diversity of technical disciplines and competencies involved in the Smart Grid deployment and operations and will come from a cross section of organizations.

2. The Director of NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the Committee shall not be compensated for their service, but will, upon request, be allowed travel and per diem expenses, in accordance with 5 U.S.C. 5701 *et seq.*, while attending meetings of the Committee or subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. The Committee shall meet approximately two times per year at the call of the Designated Federal Officer (DFO). Additional meetings may be called by the DFO whenever one-third or more of the members so request it in writing or whenever the Director of NIST requests a meeting.

Nomination Information:

1. Nominations are sought from all fields involved in issues affecting the Smart Grid.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Visiting Committee on Advanced Technology (VCAT)

ADDRESSES: Please submit nominations to Karen Lellock, Executive Director, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, MD 20899–1060. Nominations may also be submitted via fax to 301–216–0529 or via email at *karen.lellock@nist.gov.* Additional information regarding the VCAT, including its charter, current membership list, and executive summary may be found on its electronic homepage at *http://www.nist.gov/director/vcat/.*

FOR FURTHER INFORMATION CONTACT: Karen Lellock, Executive Director, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, MD 20899–1060, telephone 301–975–8678, fax 301–216–0529; or via email at *karen.lellock@nist.gov.*

Committee Information

The VCAT (Committee) was established in accordance with 15 U.S.C. 278 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs, within the framework of applicable national policies as set forth by the President and the Congress.

2. The Committee will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

3. The Committee shall report to the Director of NIST.

4. The Committee shall provide an annual report, through the Director of NIST, to the Secretary of Commerce for submission to the Congress not later than 30 days after the submittal to Congress of the President's annual budget request in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect NIST, or with which the Committee in its official role as the private sector policy adviser of NIST is concerned. Each such report shall identify areas of research and research techniques of NIST of potential importance to the long-term competitiveness of United States industry, in which NIST possesses special competence, which could be used to assist United States enterprises and Untied States industrial joint research and development ventures. Such report also shall comment on the programmatic planning document and updates thereto submitted to Congress by the Director under subsections (c) and (d) of section 278i of the NIST Act. The Committee shall submit to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.

Membership

1. The Committee shall consist of fifteen members appointed by the Director of NIST, at least ten of whom shall be from United States industry. Members shall be selected solely on the basis of established records of distinguished service; shall provide representation of a cross-section of traditional and emerging United States industries; and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. No employee of the Federal Government shall serve as a member of the Committee.

2. The Director of NIST shall appoint the members of the Committee. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

3. The term of office of each member of the Committee shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy.

Miscellaneous

1. Members of the Committee will not be compensated for their services, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs) and will be subject to the ethics standards applicable to SGEs. As SGEs, the members are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. Meetings of the VCAT usually take place at the NIST headquarters in Gaithersburg, Maryland, and may be held periodically at the NIST site in Boulder, Colorado. Meetings are usually two days in duration and are held at least twice each year.

4. Generally, Committee meetings are open to the public.

Nomination Information:

1. Nominations are sought from all fields described above.

2. Nominees should have established records of distinguished service and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment and international relations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the candidate agrees to the nomination, acknowledges the responsibilities of serving on the VCAT, and will actively participate in good faith in the tasks of the VCAT.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse VCAT membership.

Dated: October 30, 2014.

Richard Cavanagh,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2014–26317 Filed 11–4–14; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD595

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for three new scientific research permits, one permit modification, and seven research permit renewals.

SUMMARY: Notice is hereby given that NMFS has received 11 scientific research permit application requests relating to Pacific salmon, sturgeon, rockfish, and eulachon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on December 5, 2014.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.nwr.apps@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Lower Columbia River (LCR); threatened Puget Sound (PS); threatened Snake River (SR) fall-run; threatened SR spring/summer-run (spr/sum); endangered Upper Columbia River (UCR) spring-run; threatened Upper Willamette River (UWR).

Steelhead (*O. mykiss*): Threatened UCR; threatened SR; threatened middle Columbia River (MCR); threatened LCR; threatened PS; threatened UWR.

Sockeye salmon (*O. nerka*): Endangered SR.

Chum salmon (*O. keta*): Threatened Columbia River (CR); threatened Hood Canal summer (HCS).

Coho salmon (*O. kisutch*): Threatened LCR; threatened Oregon Coast (OC).

Eulachon (*Thaleichthys pacificus*): Threatened southern distinct population segment (DPS) (*S. eulachon*).

Green sturgeon (*Acipenser medirostris*): Threatened southern DPS.

Rockfish (*Sebastes* spp.): Endangered Puget Sound/Georgia Basin (PS/GB) bocaccio (*Sebastes paucispinis*); threatened PS/GB canary rockfish (*S. pinniger*); threatened PS/GB yelloweye rockfish (*S. ruberrimus*).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1523–3R

The National Council of Air and Stream Improvements (NCASI) is seeking to renew its permit to annually take listed salmon while conducting research in the McKenzie and Willamette rivers in Oregon. The researchers are requesting another five-year permit to take juvenile UWR Chinook salmon while studying water quality and biological conditions in rivers receiving paper and pulp mill discharges. The research would provide information on existing conditions in the watersheds and on changes in those conditions over time. Ultimately, the research would produce data regarding the aquatic communities' responses to environmental stressors. The information would be used in a larger effort to monitor watershed health, water quality, and salmon recovery in the upper Willamette River subbasin. The NCASI researchers propose to capture (using boat electrofishers), handle, and release listed salmon. They do not intend to capture adult fish but some may be in the area being fished and would be avoided as much as possible. While most of the fish would be unharmed, some juveniles may unintentionally be killed during the course of the research.

Permit 1525–6R

The Northwest Fisheries Science Center (NWFSC) is seeking to renew its permit to annually take listed salmonids while studying habitat occurrence, diet, contaminant concentrations, and health indicators in juvenile salmonids from the Lower Willamette and Columbia Rivers. The NWFSC is requesting another five-year permit to take SR spring/summer Chinook salmon, SR fall Chinook salmon, SR sockeye, SR steelhead, UCR Chinook salmon, UCR steelhead, MCR steelhead, LCR Chinook salmon, LCR coho salmon, LCR steelhead, UWR Chinook salmon, UWR steelhead, CR chum salmon, Southern Distinct Population Segment (DPS) green sturgeon, and Southern DPS eulachon. The purposes of the study are to (1) determine contaminant concentrations in fish, (2) understand bioaccumulation in juvenile salmon and determine site specific factors, (3) analyze for the presence of physiological biomarkers, and (4) investigate the presence of indicators of exposure to environmental estrogens. The research would benefit the fish by providing resource managers with information on contaminant presence and concentration for a variety of contaminants and in a wide array of species. That data, in turn, would be used to inform numerous processes and documents from fishing regulations to recovery plans. The NWFSC would collect samples with seines or high speed rope trawls in the lower Willamette River, Oregon, and in the Columbia River from Bonneville Dam to the mouth. Researchers would handle juvenile fish and intentionally kill some of them to assay pathogen prevalence and intensity, biochemical composition, histopathological attributes, and stomach content analyses.

Permit 10020–4M

The City of Bellingham (COB) is seeking to modify a five-year research permit that currently allows them to take juvenile PS Chinook salmon and juvenile and adult PS steelhead. The sampling would take place in Cemetery and Squalicum creeks near Bellingham, WA. The purpose of the study is to assess the effectiveness of habitat restoration measures implemented as part of the Whatcom Creek Long-term Restoration Plan by documenting fish population trends. This research would benefit the affected species by informing future restoration designs as well as providing data to support future enhancement projects. The COB proposes to capture fish using smolt traps placed in Cemetery and Squalicum creeks. Fish would be captured, anesthetized, identified by species, measured, have a tissue sample taken (to determine their origin), and allowed to recover in cool, aerated water before being released back to the stream. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

Permit 14668–2R

The United States Fish and Wildlife Service (FWS) is seeking to renew its permit to take listed salmonids while conducting the National Wild Fish Health Survey. The FWS is requesting another five-year permit to take listed salmon and steelhead while conducting

research on the distribution of the Spring Viremia virus in wild carp. The FWS would capture, handle, and release listed juvenile salmonids (UCR Chinook, UCR steelhead, SR spring/summer Chinook, SR fall Chinook, SR steelhead, SR sockeye, MCR steelhead, LCR Chinook, LCR coho, LCR steelhead, CR chum, UWR Chinook, UWR steelhead, and OC coho) while conducting the research on carp. The FWS researchers would use beach seines and boat- and backpack electrofishing equipment to capture juvenile fish. The researchers would avoid contact with adult salmonids. If listed fish are captured during the research, they would be released immediately. The researchers do not expect to kill any listed fish but a small number may die as an unintended result of the research activities.

Permit 15205–3R

The KWIAHT Center for the Historical Ecology of the Salish Sea is seeking to renew for five years a research permit that currently allows them to take juvenile PS Chinook salmon. Sampling sites would occur offshore of Blakely, Decatur, Lopez, and Waldron islands in the San Juan Island archipelago in Washington's Puget Sound. The purpose of this research is to measure prey opportunities (quantity and quality) for juvenile Chinook and other salmonids when they congregate annually in the San Juan Islands basin. This research would benefit PS Chinook salmon by analyzing the importance of terrestrial prey to juvenile wild Chinook during their neritic life history stage. The researchers propose using a beach seine to capture the fish. Fish would be captured, anesthetized, measured, have a tissue sample taken (sample scale and fin clip), gastric lavaged, and be allowed to recover in cool, aerated water until they are ready for release. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

Permit 15230–2R

West Fork Environmental, Inc. (WFE) is seeking to renew for five years a research permit that currently allows them to take juvenile PS Chinook salmon and PS steelhead. The work would be conducted at sampling sites on the Tolt River (Snoqualmie River sub-basin). The purpose of the study is to better understand the seasonal use of the Tolt River and its tributaries by juvenile summer PS steelhead prior to their outmigration. This research would benefit PS steelhead by providing a better understanding of population-specific age structure, genetic structure, and movement patterns. The WFE researchers propose to capturing fish using beach seines, backpack electrofishing, and boat electrofishing. Steelhead would be captured, anesthetized, measured, weighed, have a tissue sample taken (sample scale and fin clip), PIT tagged, and allowed to recover in cool, aerated water until they are ready for release. All captured PS Chinook would be anesthetized, held until they recover, and released. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

Permit 17062–4R

The NWFSC is seeking to renew for five years a research permit that currently allows them to take juvenile and adult HCS chum, PS Chinook salmon, PS steelhead, and PS/GB bocaccio. The researchers may also take juvenile and adult PS/GB canary rockfish and PS/GB yelloweye rockfish, for which there are currently no ESA take prohibitions. Sampling would take place throughout the Puget Sound, the Strait of Juan de Fuca, and Hood Canal, Washington. The purpose of the study is to determine how much genetic variation exists between coastal and PS/GB DPS populations of bocaccio, canary rockfish, and yelloweye rockfish. The research would benefit rockfish by increasing the understanding of the connectivity (or lack thereof) between rockfish populations in the Puget Sound and populations on the outer coast. The NWFSC proposes to capture fish by (1) using hook and line equipment at depths of 50–100 meters and (2) using a hand net while SCUBA diving at depths up to 40 meters. For the hook and line fishing, captured rockfish would be slowly reeled to the surface and returned to the water via rapid submersion techniques to reduce barotrauma. For the hand netting, juvenile rockfish would be processed either at the capture site or brought to the surface before being released. All captured ESA-listed rockfish would be measured, sexed, have a tissue sample taken, floy tagged, and released. If an individual of these species is captured dead or deemed nonviable, it would be retained for genetic analysis. All other fish would be immediately released at the capture site. The researchers do not propose to kill any of the listed fish being captured, but a small number may die as an unintended result of the activities.

Permit 14772–2R

The Oregon Department of Fish and Wildlife (ODFW) is seeking to renew its permit to take juvenile and adult OC coho salmon. They are requesting another five-year permit to take OC coho while studying fish abundance and distribution and habitat preference in the Umpqua River. The researchers would also study the distribution of non-native invasive species, interspecific competition, and predator-prey interactions. The information would benefit OC coho by helping to improve management plans. The fish would be captured using backpack and boat electrofishing equipment; they would then be handled and released unharmed. The ODFW researchers would avoid adult coho, but a few may be shocked. In the event that an adult coho is encountered, the research crew would shut off the electrical current and allow the fish to swim away and no more electrofishing would occur in that location. The ODFW researchers do not intend to kill any of the fish being captured but a small number of juvenile coho may die as an unintended result of the activities.

Permit 18852

The FWS is seeking a five-year permit to take UCR Chinook and steelhead and MCR steelhead while conducting three studies in the mid- and upper Columbia River in Washington State. The studies are (1) The Yakima Habitat Restoration Project Assessment (in which the effectiveness of habitat restoration projects would be measured); (2) The Toppenish Refuge Steelhead Use Assessment (in which steelhead habitat use on the Toppenish National Wildlife Refuge would be examined); and (3) Fish Population and Distribution Assessments (in which the FWS would study bull trout and Pacific lamprey distribution and abundance and possibly encounter listed salmonids). Under Study 1, the researchers would use backpack electrofishers to capture MCR steelhead. The captured fish would be identified by species, anesthetized, measured, and released. Under Study 2, the researchers would use a screw trap to capture juvenile MCR steelhead. The captured fish would be anesthetized, tagged and tissue sampled, measured, allowed to recover, and released. Under Study 3, the primary collection method would be netting while snorkeling, but in some areas backpack electrofishing equipment (including lamprey electrofishers) would be used. Non-target species, including UCR steelhead and Chinook salmon, would be not be netted if they

can be identified. The captured steelhead and Chinook would be released with minimal handling, but some may be anesthetized, identified by species, and scanned for PIT tags. These fish will be held and allowed to recover in cool, aerated water and released at or near the site of capture.

The studies would benefit the fish by helping guide habitat restoration efforts and refuge planning and adding information on fish presence and interactions in areas where they are currently poorly understood. The researchers do not intend to kill any of the fish being captured but a small number may die as an inadvertent result of the activities.

Permit 18883

The City of Portland has requested a one-year permit to take listed salmon and steelhead while conducting fish tissue sampling in the Columbia River slough. The City performs fish tissue sampling every 10 years to assess whether upland source control actions have reduced the level of toxins in fish tissue and to evaluate exposure levels for people who consume fish. Due to their high lipid content and feeding habits, carp are the target fish species used to evaluate exposure levels. The City would collect adult carp, using boat electrofishing equipment, from locations throughout the Slough. Although salmon and steelhead are not the target of the study, the City may inadvertently take juvenile and adult LCR Chinook salmon, LCR coho salmon, LCR steelhead, UWR Chinook salmon, and UWR steelhead. These fish would benefit from the information to be gained because that information would be used to reduce contaminant loads in all fish using the slough. The City does not intend to kill any of the salmonids being captured but a small number of juvenile fish may die as an unintended result of the activities.

Permit 18906

The Northwest Straits Foundation (NSF) is seeking a five-year research permit to annually take juvenile HCS chum salmon, PS Chinook salmon, and PS steelhead. The researchers may also take adult S eulachon, for which there are currently no ESA take prohibitions. Sampling would take place at 20 to 30 sites in Puget Sound at the following locations: Fidalgo Bay, Bowman Bay, Shannon Point, Fort Townsend, Oak Bay, and Smugglers Cove. The purpose of the study is to monitor ecosystem response to restoration efforts and determine the restoration activities' effectiveness at reestablishing habitat as a natural functioning ecosystem. The research would benefit the listed species by determining the effectiveness of these restoration efforts and helping guide future efforts. The NSF proposes to use beach seines to capture the fish; they would then be identified by species, measured, and released. The researchers do not propose to kill any of the listed fish being captured, but a small number may die as an unintended result of the activities.

Permit 19013

Long Live the Kings (LLTK) is seeking a five-year research permit to annually take juvenile HCS chum salmon, PS Chinook salmon, and PS steelhead from the Hamma Hamma River, Washington, while assessing effects and effectiveness of PS steelhead supplementation in that area. The research would benefit the listed species by determining what legacy effects the PS steelhead hatchery program has had on natural steelhead populations (abundance, genetic diversity, and life history diversity). The LLTK researchers propose to use a rotary screw trap to capture the fish which would then be anesthetized, weighed, measured, have a tissue sample taken (sample scale and fin clip), and allowed to recover in cool, aerated water until they are ready for release. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: October 29, 2014.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–26243 Filed 11–4–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD594

Endangered and Threatened Species; Take of Abalone

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

ACTION: Notice of receipt for a request to modify an existing scientific research and enhancement permit.

SUMMARY: Notice is hereby given that NMFS has received one permit application request to modify an existing research and enhancement permit. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management, conservation, and recovery efforts. The application may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on December 5, 2014.

ADDRESSES: Written comments on the application should be submitted to the Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404. Comments may also be submitted via fax to 707–578–3435 or by email to *nmfs.swr.apps@noaa.gov* (include the permit number in the subject line of the email).

FOR FURTHER INFORMATION CONTACT: Jeffrey Jahn, Santa Rosa, CA (ph.: 707–575–6097), Fax: 707–578–3435, email: *Jeffrey.Jahn@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Endangered white abalone (*Haliotis sorenseni*).

Authority

Scientific research and enhancement permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–227). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should

set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Application Received

Permit 14344 Modification 1

The University of California at Davis, Bodega Marine Laboratory (BML) is seeking to modify permit (14344) that currently authorizes the captive maintenance and breeding of captive white abalone. The research is designed to (1) investigate and overcome barriers to propagating endangered white abalone in captivity, (2) identify reproduction limits in wild white abalone, (3) to investigate white abalone disease processes and learn how to mitigate them, and (4) seek the most successful means of recovering these animals in the wild. The requested modification would allow BML to collect wild white abalone from the ocean, especially individuals facing immediate harm, in order to increase the numbers and genetic integrity of captive broodstock. We expect and intend that the captive breeding program will benefit the abalone by increasing their numbers, helping to stabilize the population, and eventually helping to recover them in the wild. The researchers do not intend to kill any of the animals being captured but a small number of them may be killed as an inadvertent result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: October 29, 2014.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–26242 Filed 11–4–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 1206013478–4863–03]

RIN 0648–XB140

Endangered and Threatened Wildlife and Plants: Notice of 12-Month Finding on a Petition To List the Queen Conch as Threatened or Endangered Under the Endangered Species Act (ESA)

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

ACTION: Notice of 12-month finding.

SUMMARY: We, NMFS, announce a 12-month finding and listing determination on a petition to list the queen conch (*Strombus gigas*) as threatened or endangered under the Endangered Species Act (ESA). We have completed a comprehensive status report for the queen conch in response to the petition submitted by WildEarth Guardians. Based on the best scientific and commercial information available, including the status report (NMFS, 2014a), we have determined that the species does not warrant listing at this time. We conclude that the queen conch is not currently in danger of extinction throughout all or a significant portion of its range nor is it not likely to become so within the foreseeable future.

DATES: This finding was made on November 5, 2014.

ADDRESSES: Documents associated with this determination and reference list—are available by submitting a request to the Species Conservation Branch Chief, Protected Resources Division, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701–5505, Attn: Queen Conch 12-month Finding. The reports are also available electronically at: *http://sero.nmfs.noaa.gov/protected_resources/listing_petitions/index.html.*

FOR FURTHER INFORMATION CONTACT: Calusa Horn, NMFS, Southeast Regional Office (727) 824–5312.

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2012, we received a petition from WildEarth Guardians to list the queen conch (*Stombus gigas*) as threatened or endangered under the Endangered Species Act of 1973. The petitioner also requested that critical habitat be designated for this species concurrent with listing under the ESA. The petition stated that overfishing is the greatest threat to queen conch and is the principal cause of population declines. It also argued that the existing regulations are ineffective and unable to prevent the unsustainable and illegal harvest of queen conch. The petitioner asserted that biological characteristics (e.g., slow growth, late maturation, limited mobility, occurrence in shallow waters, and tendency to aggregate) render the species particularly vulnerable to overharvest, and that Allee effects are preventing the recovery of overexploited stocks. The petitioner also argued that degradation of shallow water nursery habitat and water pollution, specifically high concentrations of zinc and copper, reduces juvenile recruitment and causes reproductive failure.

On August 27, 2012, we published a 90-day finding with our determination that the petition presented substantial scientific and commercial information indicating that the petitioned action may be warranted (77 FR 51763). The 90-day finding requested scientific and commercial information from the public to inform a status report of the species. We requested information on the status of the queen conch throughout its range including: (1) Historical and current distribution and abundance of this species throughout its range; (2) historical and current population trends; (3) biological information (life history, genetics, population connectivity, *etc.*); (4) landings and trade data; (5) management, regulatory, and enforcement information; (6) any current or planned activities that may adversely impact the species; and (7) ongoing or planned efforts to protect and restore the species and its habitat. We received information from the public in response to the 90-day finding, and relevant information was incorporated into the status report.

Listing Species Under the ESA

We are responsible for determining whether queen conch are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms constitutes a ''species'' under Section 3 of the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines species to include ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.'' Thus, as an invertebrate, the queen conch can only be considered for listing as a taxonomic species or subspecies. The species diagnosis for the queen conch has been

established since its original taxonomic description in Linnaeus (1758). While some higher taxonomic changes have been considered, the classification as a separate species has not been debated. Therefore, based on the best information available, the queen conch (*S. gigas*) constitutes a ''species'' under the ESA.

Section 3 of the ESA also defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' In the context of the ESA, NMFS interprets an ''endangered species'' to be one that is presently at risk of extinction. A ''threatened species'' is not currently at risk of extinction, but is likely to become so in the foreseeable future. The key statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either now (endangered) or in the foreseeable future (threatened).

We have followed a step wise approach in making this listing determination for the queen conch. First we conducted a biological review of the species' taxonomy, distribution, abundance, life history, biology, and available information on threats affecting the species' status was compiled into a status report (NMFS, 2014a). In this report we also defined the foreseeable future for our evaluation of extinction risk. Then we established a group of biologists and marine mollusk experts (hereafter referred to as the Extinction Risk Analysis (ERA) group) to conduct a threats assessment for the queen conch, using the information in the status report. The ERA group was comprised of six ESA-policy experts from NMFS' Office of Protected Resources and the Southeast and Southwest Regional Office's Protected Resources Divisions, three biologists with fisheries management expertise from NMFS' Southeast Region's Sustainable Fisheries Division (SFD), and two marine mollusk biologists from NMFS' Northwest and Southeast Fisheries Science Centers. The ERA group had expertise in marine mollusk biology, ecology, population dynamics, ESA-policy, and fisheries management. The group members were asked to independently evaluate severity, scope, and certainty for each threat currently and in the foreseeable future (15 years from now).

In addition to the ERA group's assessment, we undertook additional analysis to help us better consider the species' current status and extinction risk, beyond the information in the status report alone. The Southeast Fisheries Science Center (SEFSC) and the Southeast Region's Sustainable Fisheries Division (SFD) provided: (1) Queen conch abundance estimates; (2) a meta-analysis of factors affecting the status and health of queen conch; (3) a mapping of queen conch densities and oceanographic currents for evaluating dispersal and recruitment of queen conch; and (4) a sustainability index. The ERA group did not take into account this information, because it was prepared after the extinction risk analysis was conducted. Next, we used the information generated by the status report, the ERA, and other information to make a final determination on the severity, scope, and certainty of the extinction risk of threats across the species' range, now and over the foreseeable future.

Then we determined whether the queen conch qualifies for threatened or endangered status throughout all or a significant portion of its range. The statute requires us to determine whether any species is endangered or threatened as a result of any one or a combination of the following five factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence (ESA, section 4(a)(1)(A)–(E)). After conducting the five factor threat analysis we evaluated the available information to determine whether there is a portion of the species range that is ''significant'' in light of the use of the term in the definitions of threatened and endangered. To do so we followed the final policy interpreting the phrase ''significant portion of its range'' (79 FR 37578; July 1, 2014). The policy states that a portion of the range of a species is significant if the species is not currently endangered or threatened throughout its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range. We were unable to identify any significant portion of the species' range, where its status is different than that we identified for the species rangewide.

Taxonomy

Strombus gigas is a mollusk in the class Gastropoda, order Neotaenioglossa and family Strombidae. Synonyms include *Lobatus gigas* (Linnaeus, 1758), *S. lucifer* (Linnaeus, 1758), *Eustrombus gigas* (Linnaeus, 1758), *Pyramea lucifer* (Linnaeus, 1758), *S. samba* (Clench, 1937), *S. horridus* (Smith, 1940), *S. verrilli* (McGinty, 1946), *S. canaliculatus* (Burry, 1949) and *S.pahayokee* (Petuch, 1994).

The queen conch is a large gastropod mollusk that is identified by its large, whorl-shaped shell with multiple spines at the apex and by the pink interior of the shell lip. The outside of the shell becomes covered by an organic periostracum layer as the queen conch matures, which can be much darker than the natural color of the shell. Shell morphology is highly plastic and environmental conditions appear to be a strong influence on shell morphology and growth (Martin-Mora *et al.,* 1995; McCarthy, 2007). Therefore, shells of the same age can vary in size due to habitat and geographic nuances. Characteristics used to distinguish *S. gigas* from other conch in the family Strombidae include: (1) Large, heavy shell; (2) short, sharp spires; (3) brown and horny operculum and; (4) bright pink shell interior (Prada *et al.,* 2008), as well as differences in geographic distribution and maximum size (Simone, 2005).

Distribution

The geographic distribution of queen conch ranges from Bermuda to the north, Panama to the south, Barbados to the east, and the Gulf Coast of Mexico to the west. The queen conch occurs throughout the Caribbean Sea and the Gulf of Mexico. It has been reported from the following countries and territories: Antigua and Barbuda, Aruba, Anguilla, Barbados, Bahamas, Belize, Bermuda, Caribbean Netherlands, Colombia, Costa Rica, Cuba, Curaçao, Dominican Republic, French West Indies, Grenada, Haiti, Honduras, Mexico, Montserrat, Nicaragua, Panama, Puerto Rico, St. Maarten, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, the Turks and Caicos, the United States (Florida), the U.S. and the British Virgin Islands, and Venezuela (Theile, 2001). The species has been reported from most islands within its geographic range at some time (Appeldoorn and Baker, 2013).

Diet, Habitat, and Movement

Queen conch are herbivores and benthic grazers (Randall, 1964; CFMC, 2005) that feed on diatoms, seagrass detritus, macroalgae and epiphytes (Stoner *et al.,* 1995; Stoner, 2003). Adults forage on different types of

filamentous algae (Ray and Stoner, 1994; Creswell, 1994). Green algae (*Batophora oerstedii*) may be a preferred diet item as higher conch densities are correlated with its presence and a conch aggregation was noted as modifying movement toward it (Stoner and Ray, 1993). About 60 percent of juvenile conch diet is composed of seagrass detritus (Stoner, 1989b; Stoner and Waite, 1991), with seagrass epiphytes providing additional nutrition (Stoner, 1989a). In sand habitat, juveniles also feed on diatoms and cyanobacteria that are found in the benthos (Creswell, 1994; Ray and Stoner, 1995).

Queen conch change habitats as they grow. During the early planktonic life stage, queen conch larvae (called veligers) feed on phytoplankton in the water column. Larvae must receive the right amount of nutrition during this stage, or development can be delayed (Brownell, 1977). Larvae then settle in seagrass to metamorphose into juveniles. These seagrass nursery areas need physical and oceanographic processes to ensure larval settlement and retention and abundant prey to support early development (Stoner *et al.,* 1998; Stoner *et al.,* 2003). Larvae settle and bury themselves in the sand until they approach a year in age, then they emerge during warmer summer months and disperse throughout seagrass (Iversen *et al.,* 1986; Stoner *et al.,* 1988; Jones and Stoner, 1997).

Juveniles occur primarily in back reef areas (i.e., shallow sheltered areas, lagoons, behind emergent reefs or cays) in areas of medium seagrass density, at depths between 2 to 4 m, with strong tidal currents (at least 50 cm/s; Stoner, 1989b) and frequent tidal-water exchange (Stoner and Waite, 1991; Stoner *et al.,* 1996). In experimental conditions, juvenile queen conch actively selected seagrass plots with intermediate densities of seagrass biomass. This density of seagrass is thought to provide both nutrition and protection from predators (Ray and Stoner, 1995; Stoner and Davis, 2010). In one study, all juveniles were found within 5 km of the Exuma Sound inlet, Bahamas, emphasizing the importance of currents and frequent tidal water exchange on both larval supply and their algal food (Jones and Stoner, 1997). Juveniles have also been found in deeper, open shelf areas, but little is known of settlement dynamics in these deeper waters. Conch nursery areas typically occur in shallow seagrass meadows of intermediate densities (Jones and Stoner, 1997) and support juvenile conch in densities of 1,000 to 2,000 individuals per hectare (Wood and Olsen, 1983; Weil and Laughlin, 1984).

Juvenile conch are gregarious; solitary individuals move toward juvenile aggregations, and individuals within these aggregations remain there until close to adulthood (Stoner and Ray, 1993). Juvenile queen conch within dense aggregations have higher survivorship, supporting a predator avoidance role of aggregation behavior (Stoner and Ray, 1993). Aggregations of juvenile conch are found in water depths of less than 4 m year-round, peaking in March. Well-defined aggregations can remain together for at least 5 months, but they usually last for 2 to 3 months (Stoner and Lally, 1994). There may be some seasonality in the direction of movement (Stoner and Lally, 1994). Movement of juvenile aggregations increased with low food supply, decreased when heavy algal mats were encountered, and may temporarily stop during high wave action and low temperatures which occur during winter months (Stoner, 1989a; Stoner and Lally, 1994).

Adult queen conch tolerate a wider range of environmental conditions compared to the specific habitat requirements of juveniles (Stoner *et al.,* 1994). Adults prefer sandy algal flats but can also be found in areas of seagrass meadows, gravel, coral rubble, smooth hard coral, or beach rock bottoms (Torres-Rosado, 1987; CFMC, 1996a; Acosta, 2001; Stoner and Davis, 2010). Adult queen conch are rarely, if ever, found on soft bottoms composed of silt and/or mud, or in areas with high coral cover (Acosta, 2006). Females laying egg masses are generally found in coarse sandy habitats or patches of bare sand, but occasionally in seagrass (Glazer and Kidney, 2004; McCarthy, 2008).

Adult conch are often found in clear water of oceanic or near-oceanic salinities at depths generally less than 75 m and usually less than 30 m (McCarthy, 2008). It is believed that depth limitation is based mostly on light attenuation limiting their photosynthetic food source (Randall, 1964; McCarthy, 2008). The average home range size for adult queen conch has been measured at about 5.98 ha in Florida (Glazer *et al.,* 2003), 0.6 to 1.2 ha in Barbados (Phillips *et al.,* 2011), and 0.15 to 0.5 ha in the Turks and Caicos Islands (Hesse, 1979). Adult males and females have no significant difference in movement rate, site fidelity, or size of home range (Glazer *et al.,* 2003).

The seasonal movements of adult conch are associated with summer mating and egg-laying (Stoner and Sandt, 1992). During the summer months, queen conch move from feeding habitats to mating and egg-laying habitats in shallow water (Stoner and Sandt, 1992). Several studies have reported that adult queen conch move to nearshore habitats during their reproductive season, but return to feeding habitats after mating and egg-laying (Stoner and Sandt, 1992; Hesse, 1979; Glazer et al., 2003). These movements are well known and are associated with factors like change in temperature, available food resources, and predation. This seasonal movement pattern has been documented in Venezuela, the U.S. Virgin Islands, and the Bahamas (Weil and Laughlin, 1984; Coulston et al., 1988; Wicklund et al., 1988; Stoner et al., 1992). Not all conch move into shallow waters during the reproductive periods; conch found in the deeper waters near Puerto Rico and Florida are geographically isolated from nearshore shallow habitats and remain offshore year round (Glazer et al., 2008; Garcia-Sais et al., 2012).

Reproductive Biology

Mating occurs in the summer when adult conch move to shallower water to form mating aggregations and find mates as the species is an internal fertilizer (Appeldoorn 1988c; Stoner and Sandt, 1992). Mating success and egg-laying are directly related to the density of mature conch (Stoner and Ray-Culp, 2000; Stoner *et al.,* 2011; Stoner *et al.,* 2012). At low densities, the probability of encounters between males and receptive females is significantly reduced and overall reproductive success is impacted (Stoner and Ray-Culp, 2000). The effects of density on reproduction are discussed below.

Queen conch have a protracted mating season, with maximum mating and egg laying occurring during summer months (Appeldoorn, 1988c; Berg *et al.,* 1992a). Aggregations form in the same location year after year (Posada *et al.,* 1997; Glazer and Kidney, 2004; Marshak *et al.,* 2006). The length of the breeding season varies geographically according to water temperature, but it generally occurs during the months of April to October (Avila-Poveda and Baqueiro-Cardenas, 2009), with conch copulation occurring both day and night (Randall, 1964).

Females can store fertilized eggs for several weeks before laying eggs (David *et al.,* 1984), and multiple males can fertilize a single egg mass (Medley, 2008). Egg masses are deposited through the egg groove in the shell over 24 to 36 hours (Randall, 1964). Queen conch are highly productive, with each female laying millions of eggs each year. When adequate food is available, female conch

can lay an average of 13.6 egg masses, containing about 750,000 eggs each; resulting in about ten million eggs produced per individual per reproductive season (Appeldoorn, 1993). Female conch that had less food available produced 6.7 egg masses, containing 500,000 eggs, resulting in about 3.3 million eggs per individual per reproductive season (Appeldoorn, 1993). Egg masses have been found in water depths ranging from 3 to 45 m (Tewfik *et al.,* 1998; García-Sais *et al.,* 2012). Clean, low organic content, coarse sand flats are the preferred habitat for reproduction and egg laying (Randall, 1964; Glazer and Kidney, 2004). Adherence of sand grains to the egg mass may provide camouflage and discourage predation (Randall, 1964).

Life Stages and Growth

Female queen conch deposit eggs in strings that hatch after 3 to 5 days as veliger larvae (Weil and Laughlin 1984). The queen conch veligers have wing-like lobes covered with bristly hairs, called cilia—which aid in locomotion and direct microscopic algae to their mouth (FFWCC, 2006). These veligers are planktonic for generally 14 to 28 days, up to 60 days (D'Asaro, 1965). The larvae suffer high mortality rates (Chávez and Arreguín-Sánchez, 1994). These veligers are found primarily in the upper few meters of the water column (Posada and Appeldoorn, 1994; Stoner and Davis, 1994; Stoner, 2003) in densities ranging between 0–9.1/100 m^3 in the Florida Keys to 2.3–32.5/100 m^3 in the Exuma Cays, Bahamas (Stoner *et al.,* 1996). Depending on local currents, the veligers can settle locally or drift to other locations (CFMC, 1999). Metamorphosis is known to be induced by a chemical cue often associated with red algae or a similarly polar molecule (Myanmanus, 1988; Davis, 1994). The preferred habitat for larval queen conch settlement is shallow back reefs areas and sand bars near seagrass (Stoner *et al.,* 1994). Larval settlement also occurs in deeper areas (CRFM, 2004). After settling, the post-larvae bury themselves into the sediment for about 1 year (Stoner, 1989a), after which they emerge as juveniles with a shell length around 60 mm. It is difficult to survey conch during this submerged life phase and therefore juveniles are often under-sampled (Hesse, 1979; Appeldoorn 1987b).

Growth of queen conch is seasonal and is positively correlated with water temperature and food availability. Summer growth rates are faster than winter growth rates (Stoner and Ray, 1993). Juvenile growth rates in the Bahamas were 4.4 to 16.3 mm per month in the summer and 1.8 to 3 mm per month for the reminder of the year (Iversen et al., 1987). Shell length continues to increase until the onset of sexual maturation. The queen conch reaches sexual maturity at around 3.5 to 4 years, about the time when the edge of the shell lip turns outward to form the flared lip (Stoner *et al.,* 2012a). Once the shell lip is formed, shell length does not increase (Appeldoorn, 1997; Tewfik *et al.,* 1998). Appeldoorn (1988b) observed that, for thin-lipped males in Puerto Rico, true reproductive maturity occurred 2 months after the lip flares outward, at about 3.6 years of age. Based on histological examinations, Appeldoorn (1993) found that 100 percent of conch are not fully mature until over a year after complete lip formation. Shell thickness of at least 15 mm seems to be a better indicator of sexual maturity than the presence of the flared lip (Stoner *et al.,* 2012b; Appeldoorn, 1994; Clerveaux *et al.,* 2005; Stoner *et al.,* 2009; Stoner *et al.,* 2012b).

With the onset of sexual maturity, growth of somatic tissue within the shell will begin to decrease with increasing gonadal weight. Eventually, the volume inside the shell can no longer accommodate somatic tissue growth and the tissue weight will start to decrease (CFMC, 1999). Stoner *et al.* (2012b) found that both soft tissue weight and gonad weight started to decrease when shell lip thickness reaches 22 to 25 mm. Growth rate and shell morphology of queen conch can vary depending on sex, depth, latitude, food availability food, age class, and habitat. On average, female queen conch grow more quickly than males (Alcolado, 1976), and to a bigger size (Randall, 1964). The life span of queen conch is about 30 years (McCarthy, 2007).

Larval Dispersal and Population Connectivity

Queen conch veligers remain in the water column for up to 60 days. They are photopositive so they remain in surface waters and will be primarily distributed by surface currents (Barile *et al.,* 1994). Dispersal of the planktonic veligers via the currents is the primary mechanism for maintaining genetic connectivity of queen conch throughout the Caribbean Sea (Appeldoorn *et al.,* 2011). The regional hydrodynamics and circulation patterns in the Caribbean are complex, with numerous gyres and fine-scale features. Surface currents in the Caribbean Sea generally flow from east to west through the Yucatan Strait into the Gulf of Mexico and the Florida Straits, turning north and moving up the east coast of Florida. In addition, some current flow occurs from east to west along the Greater Antilles and northwest through the Turks and Caicos and the Bahamas' (Stoner and Banks unpublished, 2013). These current patterns are believed to link queen conch populations in the Caribbean into one large mixed population with little or no population structure or mating restrictions in the population with some local anomalies (Morales, 2004).

Nonetheless, there are restrictions governing larvae transport and recruitment. Geographic areas near strong currents are dependent on queen conch recruits that are susceptible to changes in currents. The circulations patterns in the Caribbean Sea are complex with numerous gyres and fine-scale features that can restrict larvae dispersal, retaining larvae within close proximity to the parental stocks, which can create patterns of localized self-recruitment marine species (Cowen et al., 2006; Kool et al., 2010). The available information on the gene flow of queen conch is limited, but some studies have shown that queen conch populations may be more distinct and ecologically separated from one another than initially believed. Perez-Enriquez *et al.* (2011) analyzed mitochondrial DNA markers among queen conch populations in Mexico. This study indicated that queen conch at the Alacranes Reef were genetically distinct from conch populations at Cozumel and Banco Chinchorro in Mexico that were separated by 450 to 643 km, respectively. Similarly, in the Bahamas, preliminary data detected genetic separation in queen conch populations that were located approximately 500 km from one another (Banks *et al.,* 2014). In addition, two nearby populations of queen conch in St. Lucia were found to be genetically different from each other, most likely a result of the east and west currents that prohibit the exchange of larvae between the two locations (Mitton *et al.,* 1989).

Numerous patterns of queen conch larval dispersal have been described. Queen conch larvae can either be transported long distances via currents (Posada *et al.,* 1997) or can supply local recruitment via retention in gyres and eddies (Appeldoorn, 1997). Areas that supply large numbers of larvae are known as sources; areas where large numbers of larvae settle are known as sinks. Drift vials have been used to explore patterns of larval dispersal via currents. Delgado *et al.* (2008) released vials along the Yucatan coast and suggests that most queen conch larvae remained local or were transported north. Transport of queen conch veligers

from Yucatan to West Palm Beach, Florida, could occur based on recovery of one drift vial (Delgado *et al.,* 2008). Some locations, such as Banco Chinchorro, an atoll reef off the southeast coast of Quintana Roo, Mexico, are known to supply, receive, and retain planktonic larvae within close proximity to the parental stocks (Cowen *et al.,* 2006; Kool *et al.,* 2010). Specifically, Banco Chinchorro receives queen conch veligers via westerly currents from locations to the east such as Jamaica and supplies larvae westward to Quintana Roo, Mexico, with a small percentage moving to Florida, Texas, Cuba, and the Bahamas (de Jesús-Navarrete and Aldana Aranda, 2000; Delgado *et al.,* 2008; Paris *et al.,* 2008).

The Windward Islands, Belize, and Pedro Bank, Jamaica, have both been hypothesized to be sources of queen conch larvae (Posada *et al.,* 1997; Stoner, 2006). A large-scale gyre in the Belize-Honduras bight is thought to transport larvae from the deep fore-reef and connect queen conch populations throughout Belize (CRFM, 2004). Annual variations in queen conch larval recruitment in Roselind Bank, Colombia are influenced by its proximity to the Caribbean Current (Regalado, 2012). In Colombia, the recovery of queen conch on Serrano Bank after a 5-year closure is thought to be the result of immigration of larvae from Roncador Bank (Prada *et al.,* 2008). In the Exuma Cays, Bahamas, queen conch larvae appear to be local and transported from the southeast to the northwest, moving through the island passes and settling on the west side of the island chain (Stoner, 2003). Larval density data from the Bahamas support this distribution pattern with high densities of early stage larvae in the north near Waderick Wells and lower densities in the south near Cat Island (Stoner *et al.,* 1998), as well as high densities at both the northern Exuma Cays and south coast of Eleuthera (Posada *et al.,* 1997).

In the eastern Caribbean, a survey by Posada and Appeldoorn (1994) found no queen conch larval movement between the islands of Martinique and St. Lucia or between St. Lucia and St. Vincent. High concentrations of larvae are found in the vicinity of the Grenadines which indicates larvae are being retained there. Nevis has been identified as a regional queen conch larvae settlement sink (CFMC, 1999). Elsewhere in the eastern Caribbean, local influxes of queen conch larvae must occur, given there are no possible upstream currents for larvae immigration (Stoner, 2006).

Bermuda, Florida, and Barbados represent the range limits of queen conch distribution, and they may also be areas isolated from external sources of larvae. Bermuda, a volcanic sea mount, is at the northern extent of the range. Most queen conch breeding aggregations in Bermuda have been located on the edge of the reef platform, adjacent to high current that would potentially carry the larvae away (Berg *et al.,* 1992a). These two factors, geographic isolation and limited larval recruitment, are thought to have limited the recovery of queen conch in Bermuda. In Florida, the Gulf Stream prevents larval inputs from the Bahamas and the Greater Antilles, so there are few larval inputs (Posada and Appeldoorn, 1994; Delgado *et al.,* 2008), except for an occasional eddy of the Florida Current that brings in queen conch larvae from Belize, Mexico, and Honduras (Stoner *et al.,* 1997). Because recent data suggest the population in Florida is increasing, local recruitment may be significant (Delgado *et al.,* 2008; Glazer and Delgado, 2012). Barbados, at the eastern edge of the range, is thought to have a self-sustaining population, given its isolation from other breeding populations. Queen conch larvae may be retained near Barbados, similar to damselfish (Cowen and Castro, 1994), by local circulation patterns that keep marine larvae close to the point of origin (Mitton *et al.,* 1989).

Density and Abundance

Density is likely the single most important criterion affecting conch productivity throughout its life-history, as it affects growth, successful reproduction, and fecundity. Density is one of the most easily measured and monitored attributes for assessing the status of queen conch populations (Appeldoorn *et al.,* 2011). Research has shown that there is a density-dependent effect on reproduction, with low densities inhibiting reproduction, and potentially causing a decline in recruitment. At density levels less than the critical threshold discussed below, conch mating will not occur at the frequency needed to sustain the population, which can lead to recruitment failure and population collapse (Stoner and Ray-Culp, 2000); this is known as an Allee effect.

It is well documented that the density of adult queen conch directly impacts reproductive success (Appeldoorn, 1988; Stoner and Ray-Culp, 2000; Gascoigne and Lipcius, 2004; Stoner *et al.,* 2011; QCEWR, 2012). Stoner and Ray-Culp (2000) documented a complete absence of mating and spawning behavior at densities less than 56 and 48 adult conch/ha, respectively. Recent research suggests that a mean density of 56 adult conch/ha is too low since mating activity ceased at that level, putting recruitment at risk (QCEWR, 2012). In 2012, the Queen Conch Expert Workshop recommended a mean density of 100 adult conch/ha be used as a reference point for queen conch surveys to ensure that populations are not at risk. The expert workshop conclusions indicated that conch fisheries should manage stocks at the higher density of 100 adult conch/ha, finding that there was a significant risk to recruitment when densities fell below this level (QCEWR, 2012). We believe that the best available science shows that there is a significant risk to recruitment and consequently population sustainability when queen conch densities fall below the 100 adult conch/ha threshold.

In an effort to assess the species' status throughout its range we compared two data sets: (1) Queen conch density information; and (2) habitat information that was developed using bathometry/depth contour data. These data were available for 40 range States throughout the greater Caribbean. In the assessment below, the total area of 0 to 30 m depth habitat was measured for each range State. The assessment assumes that the species is evenly distributed between 0 to 30 m in depth. We realize that the species is not spread uniformly in the 0 to 30 depth range, and is unlikely to have ever been. Queen conch naturally exist in patches where they are found in much greater density than they are in other areas, or across the entire range of potentially suitable habitat. They prefer sandy substrate, algal flats, and seagrass. As such, the densities in the surveys used in this analysis may not be an accurate reflection of the status of the species relative to requisite densities. Absent additional information on the methodologies used in each of the individual surveys, there is no way to know how representative the densities are of actual conch populations. Therefore, while the assessment may be a useful analytical tool generally, it should not be interpreted as a reliable indicator of the population status of the species in those specific range States.

Next, the appropriate conch density was then assigned to each range state. The most recent density information for each range State was used. Using each range state's habitat area and each range state's conch density; we were able to evaluate the percentage of the species' entire range which falls below or above the critical threshold (i.e., 100 adult conch/ha) required for successful mating, recruitment, and sustainable conch populations.

The best available information showed that 60.81 percent of the 0 to 30 m habitat is below the critical threshold, but as discussed previously, the accuracy of the density estimates, from which this percentage is derived, is highly uncertain. The range states whose conch densities are below 100 adult conch/ha include: Aruba, Antigua and Barbuda, Barbados, the Bahamas, Belize, the British Virgin Islands, Bonaire, Colombia, Costa Rica, Curaçao, Dominican Republic, Guadeloupe, Haiti, Puerto Rico, Mexico, Martinique, Panama, Saba, Turks and Caicos, United States (Florida), and Venezuela.

There are three range states (i.e., Jamaica, Nicaragua, and the U.S. Virgin Islands) that have conch densities above 100 adult conch/ha. Together they comprise 14.08 percent of the 0 to 30 m habitat available to the species.

There are two range states (i.e., Cuba and Honduras) that recorded conch densities above the 100 conch/ha and they comprise 22.55 percent of the 0 to 30 m habitat. The available information did not indicate whether the conch recorded during the surveys are adult, juvenile, or both. Juvenile conch can form dense aggregations that can number in the thousands and their inclusion (combining adult and juvenile) can bias densities by increasing the numbers of individuals included within the survey (A. Stoner, Community Conch, pers. comm. to C. Horn, NMFS, March 24, 2014). As a result, we are unable to determine whether these populations are above or below the critical threshold of 100 adult conch/ha.

We were unable to find queen conch population density information for the Cayman Islands, Grenada, Montserrat, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago, but all these locations have reported population declines. However, we are unable to determine whether the referenced declines have decreased those populations below the critical threshold for these locations. These range states represent 1.89 percent of the 0 to 30 m habitat available to the species.

Lastly, we were not able to find any information on the status of queen conch populations in Anguilla, Dominica, Guatemala, Saint Kitts and Nevis, Saint-Maarten, and Saint Eustatius. These range states encompass 0.67 percent of the 0 to 30 m habitat available to queen conch.

The best available conch density data indicate that the majority of queen conch populations in the greater Caribbean region are well below or now within the range where negative population growth or recruitment failure is a significant risk. The sample area for conch surveys is restricted by the depth limit for SCUBA diving safety (less than 30 m), they are generally limited to areas which are actively fished, and in most cases interviews with fishers have been used to define the area over which the survey will take place (QCEWR, 2012). Consequently density can be biased, since unexploited parts of a population at depths below typical human SCUBA diving limits (eggs masses have been found at 45m) or unknown to fishers are not counted (QCEWR, 2012). However, adult conch primarily aggregate to mate and lay eggs in waters from 0–30m, and they are also depth restricted because their food sources are photosynthetic, requiring light attenuation (Randall, 1964). Therefore, densities at greater depth are likely lower.

An additional source of uncertainty is that the density estimates from smaller spatial surveys may not be fully representative of a range state's conch population, especially if surveys are conducted in areas of lesser or greater fishing pressure and unexploited parts of the population are not counted. In comparison, surveys that are repeated every few years and are conducted over wide-geographic areas are likely to provide a more representative density of the overall conch population. Nevertheless, the information presented above is the best available scientific information we have on the current density of conch throughout its range and despite questions raised relative to the accuracy of the densities we must consider this information in assessing the species' status.

Now, we will use the information generated by the status report, the ERA group's threats assessment, and the information provided by the Southeast Region's SDF to evaluate and summarize the species' threats, by the five ESA factors listed in section 4(a)(1), to determine the severity, scope, and certainty of the extinction risk of those threats across the species' range, now and over the foreseeable future.

Threats Evaluation

As previously explained, the ERA group members conducted their individual threats assessment. This section discusses the methods used to evaluate each threat and its effect on the species' extinction risk. As explained below, the ERA group did not take into account the information provided by the Southeast Region's Sustainable Fisheries Division (SFD) because it occurred after the threats assessment was conducted. We have separately taken into account the ERA group's threat assessment and the information provided by SFD in evaluating the overall extinction risk to the species under the five ESA Section 4(a)(1) factors.

For the purpose of the extinction risk assessment, the term ''foreseeable future'' was based on 3 queen conch generations, or 15 years (a generation time is defined as the time it takes, on average, for a sexually mature female queen conch to be replaced by offspring with the same spawning capacity) and our ability to reliably predict threats that impact the species' status. After considering the life history of the queen conch, availability of data, and types of threats, we determined that the foreseeable future should be defined as approximately 15 years. This timeframe (3 generation times) takes into account aspects of the species' life history and also allows the time necessary to provide for the recovery of overexploited populations.

The queen conch is an early-maturing species, with a high fecundity and population growth rate, and larval dispersal over large spatial scales. As such it is likely that the results of recommended management actions being considered by fishery managers, developed by several working groups and international conferences (discussed below), would also be realized, and reflected in population within a 15-year time period. The foreseeable future timeframe is also a function of the reliability of available data regarding the identified threats and extends only as far as the data allow for making reasonable predictions about the species' response to those threats. We believe that the impacts from the threats on the biological status of the species can be confidently predicted within this timeframe.

Often the ability to measure or document risk factors is limited, and information is not quantitative or very often lacking altogether. Therefore, in assessing extinction risk, it is important to include both qualitative and quantitative information. In previous NMFS status reviews, Biological Review Teams and ERA teams have used a risk matrix method to organize and summarize the professional judgment of a panel of knowledgeable scientists. This approach is described in detail by Wainright and Kope (1999) and has been used in Pacific salmonid status reviews as well as in the status reviews of many other species (sees *http://www.nmfs.noaa.gov/pr/species/* for links to these reviews).

The members of the ERA group were asked to provide qualitative scores

based on their perceived severity of each threat. The members were asked to independently evaluate the severity, scope, and certainty for these threats currently and in the foreseeable future (15 years from now). The scoring for each threat corresponds to the following five levels of extinction risk: (1) no or very low risk—unlikely that this threat affects species' overall status; (2) low risk—this threat may affect species' status, but only to a degree that it is unlikely that this threat significantly elevates risk of extinction; (3) moderate risk—this threat contributes significantly to long-term risk of extinction, but does not constitute a danger of extinction in the near future; (4) increasing risk—present risk is low or moderate, but is likely to increase to high risk in the foreseeable future if present conditions continue; and (5) very high risk—this threat indicates danger of extinction in the near future.

The ERA group used the ''likelihood point'' method for ranking the threat effect levels to allow individuals to express uncertainty. For this approach, each member distributed 5 'likelihood points' among the five levels of extinction risk. If a threat was categorized as unknown, all 5 points were required to be assigned to that category alone. This approach has been used in previous NMFS status reviews (e.g., Pacific salmon, Southern Resident killer whale, Puget Sound rockfish, Pacific herring, and black abalone) to structure the team's thinking and express levels of uncertainty when assigning risk categories. The ERA group did not make recommendations as to whether the species should be listed as threatened or endangered. Rather, each member of the ERA group drew his or her own scientific conclusions, based on the information in the status report, about the risk of extinction faced by the queen conch under present conditions and in the foreseeable future based on an evaluation and assessment of threats.

Summary of Factors Affecting the Queen Conch

As described above, section 4(a)(1) of the ESA and NMFS implementing regulations (50 CFR part 424) state that we must determine whether a species is endangered or threatened because of any one or a combination of the following factors: the present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; or other natural or man-made factors affecting its continued existence. This section briefly summarizes the ERA group's findings, the SFD assessment, and our conclusions regarding threats to the queen conch.

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Habitat alteration and water pollution were considered as threats under this factor; this included habitat loss or degradation from anthropogenic or natural causes (e.g., hurricanes) and the threat of water pollution which is caused by the introduction of toxic chemicals and pollutants into the species habitat. The ERA group ranked the threat of habitat alteration an ''increasing risk'' and the threat of water pollution a ''low risk.''

The queen conch's habitat can be negatively affected by destruction of near-shore aggregation and juvenile nursery areas, as well as degraded water quality. Localized nutrient enrichment can affect the coastal habitats where juvenile conch live. Nutrient loading from coastal development, marinas and recreational boating, sewage treatment and disposal, industrial wastewater and solid waste disposal, ocean disposal, agriculture, and aquaculture can accumulate in the soil and then run off into streams and coastal waters. Nutrient enrichment is known to stimulate overly-rapid growth of phytoplankton that subsequently consume oxygen as they decay, which leads to low dissolved oxygen (i.e., eutrophication) that can cause fish kills (Correll, 1987; Tuttle *et al.,* 1987; Klauda *et al.,* 1991b). Nutrient enrichment can also trigger algal blooms which can block sunlight from reaching submerged aquatic vegetation, including seagrass. Seagrass, an important component of juvenile conch habitat, requires sunlight for photosynthesis. Seagrasses die with inadequate sunlight. The loss of seagrass would increase the vulnerability of juvenile queen conch as they rely on seagrass habitat for protection from predators.

The destruction of coastal seagrasses can also negatively affect queen conch recruitment. Juvenile conch nursery areas, which are comprised mainly of seagrass habitats, can be destroyed by coastal development, prop scarring from recreational or commercial boat traffic, and boat groundings. Habitat destruction was considered a cause for the initial decline in conch populations in Montserrat (Posada *et al.,* 1997). There has been a significant amount of seagrass loss on the west and south coast of Barbados. This loss likely contributed to low conch densities (Stoner, 2003; Valles and Oxenford, 2012). The declines in the queen conch populations reported in Saint Kitts and Nevis in 2002 have been linked to habitat degradation, dredging, and hurricane impacts on habitat (CITES, 2012). Similarly, the declines in queen conch populations in the Turks and Caicos have been related to habitat degradation and two hurricanes that impacted the area in 2008 (DEMA, 2012).

Seagrass is important to the ecosystem because it improves water quality (Carter *et al.,* 1991). In addition to providing cover and prey for juvenile conch, seagrasses transport nutrients into the water column and through primary production and respiration improve dissolved oxygen and carbon dioxide concentrations, alkalinity, and pH. Seagrass can also improve water clarity by binding sediments to the benthos.

Increased sedimentation as a result of coastal influxes can impact conch habitat. Adult conch aggregation habitats are characterized by coarse, low organic content sand, and if these shallow, coastal areas are subject to deposition of fine sediment or sediment with high organic content, these habitats could become unsuitable (Appeldoorn and Baker, 2013). For example, the main island of Trinidad does not have a significant queen conch population, in part because the habitat is unsuitable due to the low salinities and high turbidity associated with continental rivers and streams (CITES 2012). In addition, habitat loss was identified by Gore and Llewellyn (2005) as a possible factor that contributed to the decline of queen conch in the British Virgin Islands.

The run off of toxins and chemicals from upland areas into coastal waters may have negative effects on the development of the queen conch's reproductive system. The Florida Fish and Wildlife Conservation Commission (FFWCC) and other researchers have documented a population of non-reproducing queen conch in the Florida Keys (Glazer and Quinterro, 1998; Delgado *et al.,* 2004). Several studies have demonstrated that the conch found in nearshore locations of the Florida Keys do not have normal gonadal development (FFWCC, 2012). This reproductive impairment is limited to queen conch in the nearshore waters and is theorized to be related to exposure to toxins and chemical pollutants in their habitat. Specifically, Spade *et al.* (2010) suggested that the halt in reproductive maturation of queen conch in nearshore areas in the

Florida Keys was possibly a result of exposure to high levels of zinc and copper. Other gastropod studies have related heavy metal exposure, particularly copper and zinc, to reduced fecundity (Laskowski and Hopkin, 1996; Snyman *et al.,* 2004; Ducrot *et al.,* 2007; Coeurdassier *et al.,* 2005). The concentration of copper and zinc in the Florida Keys nearshore conch population's tissues was found to be similar to those found in other gastropods studies in other locations where fecundity was reduced (Spade *et al.,* 2010). In the Florida Keys, queen conch with gonad deficiencies were experimentally transferred from nearshore areas to deeper offshore areas where they developed functional gonads. Likewise, viable queen conch from the deeper offshore areas became reproductively incompetent when moved inshore, showing that exposure to an environmental factor in the nearshore environment is causing the reproductive damage, and that it is reversible (McCarthy *et al.,* 2002; Glazer *et al.,* 2008; Spade *et al.,* 2010). Impaired reproduction from water pollution is a potentially serious threat, increasing extinction risk, but the best available information indicates that these negative effects are only occurring in the nearshore waters of the Florida Keys, a relatively small proportion of the species' range. We could not find any information regarding elevated concentrations of zinc or copper anywhere else in the Caribbean Sea, so we cannot generalize this threat beyond a small part of the species' range.

Two chemicals associated with mosquito control, naled and permethrin, were tested in the laboratory on early life stages of conch, and both embryos and larvae experienced chronic, sublethal effects. Larvae exposed to these pesticides were slow-growing, which in the wild would result in an extended pelagic stage with higher total mortality before they reached recruitment size (Delgado *et al.,* 2007). When queen conch embryos and competent larvae (i.e., capable of undergoing metamorphosis) were exposed to concentrations of naled and permethrin, development slowed and irregularities occurred during embryogenesis (McIntyre *et al.,* 2006). Defects were positively correlated with concentration and resulted in deformed embryos that would not be viable (FFWCC, 2012). The pesticides may also sensitize queen conch larvae to metamorphosis-inducing cues, which could result in early metamorphosis, premature settlement on suboptimal habitat, and decreased survival (FFWCC, 2012). These lab results demonstrate only potential habitat-related impacts of pesticides on early life stages of queen conch; however, absent actual exposure information we cannot gauge the severity or certainty of impacts on wild populations and cannot project them to assess population risk. The concentrations of naled and permethin used in the lab experiments were at concentrations used for terrestrial mosquito control and did not take into consideration the dilution effects that would occur with runoff and mixing with seawater. Because effects were limited to larval development, and given the infrequent and limited larval recruitment into Florida, potential effects of the chemical as an extinction risk to the continued existence of the species are difficult to realize.

In summary, the members of the ERA group ranked the threat of habitat alteration as an ''increasing risk'' which indicates that the members thought that the present risk of extinction to queen conch resulting from habitat alteration is low or moderate, but is likely to increase to high risk in the foreseeable future if present conditions continue. The members of the ERA group ranked the threat of water pollution a ''low risk.'' This ranking indicates that the group members thought that water pollution may affect the queen conch's status, but only to a degree that is unlikely to significantly elevate extinction risk. Currently, there are numerous potential threats to coastal habitat as identified above; however, we believe that the one most significant threat is habitat loss.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The threats of commercial harvest and historical harvest include the removal of individual conch under the current regulatory mechanisms and the effects of prior harvest on the current species' status. The ERA group ranked overutilization for commercial purposes as an ''increasing risk'' threat, which indicates that the members thought that the present extinction risk is low or moderate, but is likely to increase to a high extinction risk in the foreseeable future if present conditions continue. The threat of historical harvest was ranked as a ''moderate risk'' threat to the species, indicating that the members thought the threat of historical overharvest contributed significantly to long-term risk of extinction, but does not constitute a danger of extinction in the near future.

The members of the ERA group ranked Allee effects and artificial selection as ''increasing risk'' threats, which indicates that the members of the group thought that the present risk is low or moderate, but is likely to increase to high risk in the foreseeable future (15 years) if present conditions continue. These threats are considered under Factor B, because they are caused by the overexploitation of reproductive adult conch and the targeted removal of large conch from within a population. Subsequently, these two threats are related to the principle threats of commercial harvest and the inadequacy of regulatory mechanism designed to control that harvest. As previously mentioned, the Allee effect refers to biological processes in which the viability of a population is reduced as population density decreases (e.g., through reduced mate finding or increased predator vulnerability) and, in particular to queen conch, the major concern is with the minimum density of about 100 adult conch/ha; mate finding and recruitment is at risk when conch populations decline below this threshold. In addition, the artificial selection or the targeted removal of large conch can change the morphology of individuals in a population and is related to the primary threats of overharvest, as well as the level of protection from fishing mortality (regulatory measures and law enforcement).

In the Caribbean region, the queen conch is one of the most important fishery resources, both economically and culturally (Brownell and Steven, 1981; Appeldoorn, 1994; Asprea *et al.,* 2009). The queen conch fishery encompasses the entire Caribbean region and consists of both industrial and artisanal fleets (Appeldoorn *et al.,* 2011). The species is primarily harvested by free-diving, SCUBA diving, or the use of hookah, except in those range states where underwater breathing apparatus is prohibited.

The fishery has a long tradition in the region and the species has been valued, especially for its meat, for several centuries dating back to pre-Columbian times (Brownell and Stevely, 1981). The shells are also used for jewelry and as curios, but these uses are of secondary economic importance (Mulliken, 1996; Chakalall and Cochrane, 1996). Commercial harvest records and inter-island trade were known from the mid-18th century, when dried conch meat was shipped from the Turks and Caicos Islands to the neighboring island of Hispaniola (Theile, 2001). The fishery expanded in the early 20th-century with advances in freezer technology, causing the shift to trade in frozen meat, but conch meat continued to be of

significant local importance until the mid-20th century. Since the 1970s the commercial harvest has seen a drastic increase, largely driven by the increased demand overseas, as well as by the growing resident population and the fast developing tourism industry (Theile, 2001). Today the majority of queen conch meat harvested in the Caribbean is supplied to markets in the United States and Europe, but it is also imported by many Caribbean range states where their queen conch populations are no longer able to support their domestic consumption (Theile, 2001; NMFS, 2014a). Overharvest to meet current demand is considered the primary cause of declines that are reported in numerous range states throughout the Caribbean region. The population decline has largely been attributed to overfishing, a lack of adequate enforcement, and poaching according to a review by the seventeenth meeting of the Convention on International Trade in Endangered Species (CITES) Animals Committee (2001).

As discussed above in the Density and Abundance section, many range states throughout the greater Caribbean have experienced population declines or have reported low conch densities over the years. These declines are primarily due to intensive harvest by commercial fisheries. The primary threat to queen conch is commercial harvest and the related regulatory measures designed to control commercial harvest. Other threats, such as Allee effects and artificial selection are a direct consequence of overexploitation by fisheries. NMFS considers the queen conch fishery to be overfished throughout the U.S. Virgin Islands and Puerto Rico, and the best available information indicates that the queen conch is being overfished throughout the Caribbean (NMFS, 2014b).

We evaluated trends in landings, minimum population densities, and conch habitat (0 to 30 m), either on a Caribbean-wide basis or on a country basis, when that information was available. Literature was searched to determine the composition of juveniles versus adults in queen conch catches. Regulations and regulatory compliance were also evaluated to determine their adequacy with regard to their ability to prevent overharvest and harvest of juveniles, and included an evaluation of the amount of poaching and illegal harvest that may be occurring. These data were then used by the SFD to create a sustainability index which examined queen conch sustainability on a country by country basis, as well as Caribbean-wide (NMFS, 2014b).

The index was developed to assess the overall 'sustainability' of queen conch by the top producing Caribbean countries. Eleven countries were included in this analysis (e.g., Belize, the Bahamas, Colombia, Cuba, Honduras, Jamaica, Turks and Caicos Island, Mexico, Dominican Republic, Puerto Rico, Nicaragua). These countries were selected because they represented 92.4 percent of the queen conch landings between 1980 and 2011, and 91.6 percent of the landings from 2000 to 2011. The sustainability index results were weighted by the landings data for the period between 2000 and 2011. The conch density element received 50 percent of the total score, given the limitations on reproduction at low densities (Stoner *et al.,* 2012) that could have negative effects on stock sustainability unless that stock is receiving larvae recruitments from other countries or unidentified reproductive deep water populations. The remaining 50 percent of the score was assigned to the management and regulations components (e.g., minimum size restrictions, annual catch limits or quotas, seasonal closures or marine protected areas (MPAs), prohibitions on SCUBA or hookah) and regulatory compliance (e.g., illegal harvest and poaching). The maximum score for the sustainability index was set at 20. Scores closer to the maximum 20 score indicate greater Caribbean-wide sustainability of queen conch and scores closer to zero indicate unsustainable harvest practices. A score closer to 10 would indicate that some harvest practices may be sustainable for some countries and unsustainable for other countries.

The sustainability index found that overall across the 11 countries reviewed in this assessment (*e.g.,* Belize, the Bahamas, Colombia, Cuba, Honduras, Jamaica, Turks and Caicos Island, Mexico, Dominican Republic, Puerto Rico, Nicaragua) the index score was 8.55 of 20 when weighted by landings, and 8.90 out of 20 when weighted by amount of available habitat from 0 to 30 m deep.

The SFD also reviewed Food and Agriculture Organization (FAO) queen conch landings trends by country from 1950 through 2011 for the Caribbean (NMFS, 2014b). A total of 30 countries had reported and/or estimated queen conch landings during this time. Only two countries had landings for all 62 years in the time series. In many instances, landings were estimated by the FAO when a country did not report landings, and, for some countries, landings were not reported or estimated. The estimated landings typically represented a small portion of the total annual landings (less than 5 percent), so this likely does not bias the data or add significant variability. There was a rapid increase in landings from the mid-1980s through the mid-1990s, after which landings declined by 47 percent from the mid-1990s through 2011 (Garibaldi, 2012). However, this decline, as well as the increase in landings leading up to the peak, is confounded by several factors. First and foremost, improvements in data reporting have occurred over time. For example, from 1980 to 1990 the number of countries reporting landings increased from 8 to 15, including several states and territories with significant amounts of landings such as Jamaica, Colombia, and Puerto Rico. By the early 2000s, 19 countries were reporting landings. In addition, landings for 6 to 7 other countries were being estimated by the FAO (NMFS, 2014b). Although an increase in landings is apparent, this increase may not have been as substantial if landings were being reported by more countries leading up to the peak in landings.

The number of countries with reported or estimated landings reached a maximum of 24 in 1996 and has remained fairly constant since. Based solely on available landings, there was a 47 percent decline in landings from the peak observed in 1995 (40,835 tons) through 2011 (21,448 tons). However, this decline is confounded by several regulatory measures, as well as non-reporting. For instance, there are no reported or estimated landings for Mexico during 2006 to 2011, yet prior to that time Mexico was averaging over 6,000 tons of annual landings. The reason for Mexico not reporting landings has yet to be determined, but it is not due to a full moratorium on harvest as Mexico did not close Chinchirro Bank until 2012 (Aldana Aranda GCFInet communication). Closures off the Yucutan and Quintana Roo, Mexico were implemented in the late-1980s and early 1990s (CITES, 2012). Jamaica accounted for the largest amount of landings of any country from 1980 to 2011 (22 percent), but overharvest led to more restrictive management and implementation of harvest quotas or annual catch limits. Harvest off Jamaica was unregulated until 1994 (Murray *et al.,* 2012). In 1994, the first harvest quotas were implemented. Jamaica began conducting scientific surveys and setting total allowable catches based on conch abundance that establish a required conch density at 70 conch/ha for the fishery (Murray *et al.,* 2012). This led to

considerably lower landings and fishing effort after the mid-1990s in response to more sustainable and scientifically based harvest practices. Similarly, following the Caribbean-wide peak in landings in the mid-1990s, two other countries saw major declines in landings. Landings from Honduras decreased in 2003 due to a moratorium on harvest imposed by the government in response to CITES concerns regarding the lack of information, high amount of exports, lack of landings records, illegal activity, and low population densities. Harvest and trade resumed in 2006, but only for conch collected through scientific surveys. The total allowable catch levels are considerably lower now than peak Honduran landings.

CITES also suspended exports from the Dominican Republic in 2003 due to high landings and a lack of current stock information (CITES, 2006). Exports were suspended from 2003 through 2012, during which time the fishery existed mostly for tourism and domestic consumption (Torres and Sullivan Sealy, 2002b; FAO report, 2012). If the landings from Jamaica, Mexico, the Dominican Republic, and Honduras are excluded due to confounding regulatory changes and missing landings, then the cumulative trend in landings appear to be stable (NMFS, 2014b). In fact, there is a stable trend in landings from 1993 forward, which also corresponds well with improvements in data reporting (NMFS, 2014b).

There were other regulatory changes that likely affected trends in landings from other countries, but none as significant as those observed for Jamaica, Honduras, Mexico, and the Dominican Republic. The above is not intended to assess the sustainability of queen conch, but merely point out that landings should be interpreted with caution and should be used with other sources of data to assess trends in population abundance, as reporting levels and regulations confound overall trends in landings. Regardless of improvements in reporting and regulations, landings alone may not be a useful indicator of stock health. Landings can increase, decrease, or remain stable for numerous reasons that do not necessarily reflect stock abundance or 'sustainability.' For instance, landings may be increasing because of increasing effort, but such harvest rates may not be sustainable. Similarly, hyper-stability may occur in which fishermen over time expend more effort to catch the same amount of conch. If this occurs, then catch per unit effort may decline while landings remain stable, leading to reduced population abundance. Landings may decline due to more sustainable harvesting practices, economic factors, or reduced stock abundance, so any declines should be carefully evaluated against fishery survey data and fishery-dependent data to determine the root cause of the decline.

Despite the concerns noted relative to relying on landings data, the observed high levels of relatively stable landings over the past two decades are inconsistent with the estimates of widespread low densities discussed previously. If the actual densities in the majority of the suitable habitat areas were actually below the density threshold necessary to support successful mating and reproduction, the species would be unable to support such high landings. Also, with conch being very fecund, stability of harvest over a long period of time may indicate recruitment from areas not fished, such as deep water stocks, or from areas with conch densities greater than 100 adult conch/ha, as larvae can disperse over a broad geographic range and can replenish overexploited populations.

In summary, we considered the ERA group rankings for those threats identified under Factor B. We also considered the SFD assessment, which reviewed the trends in landings and the sustainability of the largest conch fisheries (NMFS, 2014b). The sustainability index provided by SFD found that, overall, across the 11 major conch producing countries analyzed, the index score was 8.55 of 20 when weighted by landings, and 8.90 out of 20 when weighted by amount of available habitat from 0 to 30 m deep. Also, this analysis indicates that if the landings from Jamaica, Mexico, the Dominican Republic, and Honduras are excluded, due to confounding regulatory changes and missing landings (explained above), then the cumulative trend in landings appear to be stable (NMFS, 2014b). In fact, the analysis showed a stable trend in landings from 1993 forward, which also corresponds well with improvements in data reporting (NMFS, 2014b).

Based on this information, we believe that overutilization for commercial purposes is a significant threat to the species. However, based on the assessment conducted by the SFD (NMFS, 2014b) and restrictions on exports (e.g., embargos) of these fisheries due to CITES, we have determined that the current and foreseeable future impacts associated with these threats are not affecting the queen conch to such an extent that they represent a risk to persistence of the species.

Disease and Predation

Parasites and Predation were considered as threats under Factor C; this included the effects of parasites on various life-history stages and predation effects on the population and community structure. The ERA group ranked both parasites and predation as ''low risk'' threats. There is some information on the impacts of parasites and predation on queen conch, specifically related to the effects of a coccoidian parasite (apicomplexa) and the high rates of predation on the early life stages of queen conch.

Several studies report the presence of the coccoidian parasite in queen conch. The coccoidian parasite is dispersed through the feces of the host and may spread through consuming benthic detritus (Duszynski *et al.,* 2004). The presence of this parasite has been linked to reduced gametogenesis and irregularities observed in the queen conch's reproductive cycle (Aldana Aranda *et al.,* 2009a). The geographic distribution and occurrence of the parasite was found to be ''generalized and intense in various sites around the Caribbean'' (Aldana Aranda *et al.,* 2007). The infection increased across the Caribbean ocean from west to east (CITES, 2012). The lowest occurrence for this parasite was found in the Gulf of Honduras, Mexican Caribbean and Campeche Bank, followed by the Colombian Archipelago, and Venezuela Corridor, with the highest parasitism occurring at Martinique, Guadeloupe, St. Barthelemy, and Puerto Rico (Aldana Aranda *et al.,* 2011). In Florida, the parasite was found at every location and in every conch sampled (Aldana Aranda *et al.,* 2009b), but the median incidence of parasites per conch was observed to be similar to conch found in the Gulf of Honduras, Mexican Caribbean, and Campeche Bank (Aldana Aranda *et al.,* 2009a). In San Andres, Colombia, and in Mexico, the presence of the parasite has been linked to irregularities in the reproductive cycle and reduced gametogenesis (Aldana Aranda *et al.,* 2009a), but no correlation was found between the parasite and reproduction irregularities in Florida's offshore queen conch population (Aldana Aranda *et al.,* 2009b). These studies indicate that the parasite could be responsible for irregularities in the reproductive cycle and reduced gametogenesis in queen conch, but we caution that it is necessary to further investigate the relationship (Aldana Aranda *et al.,* 2009a, 2009b; FAO, 2012).

Similar to the larval stage of all marine organisms, the earlier life stages of queen conch are exposed to high rates

of predation. The predation rate on juvenile conch is estimated to be about 60 percent annually (Iversen *et al.,* 1986). Predation decreases as the shell grows to about 3.5 inches, when it is too strong to be crushed by the majority of predators (Davis, 1992), and the types of predators decreases to include only those able to destroy a strong shell, such as sharks, rays, turtles, octopi, and large hermit crabs (Brownell and Stevely, 1981).

In summary, the ERA group ranked the threats of parasites and predation a ''low risk,'' which indicates that the members thought it is unlikely that these threats affect the queen conch's overall status. We acknowledge that there are high levels of predation on the earlier phases of the queen conch's life-history; however, there is no evidence that the current level of predation is unnatural or a threat to the species. As discussed above, there is a widespread disease that is infecting queen conch. While information is limited, the best available information suggests that reproductive problems in some cases correspond with the parasite infection, but this is not the case in other locations (*e.g.,* Florida). At this time, there is insufficient information to evaluate the effects to queen conch resulting from parasites to determine whether it is a threat to the species continued persistence.

Inadequacy of Existing Regulatory Mechanisms

The inadequacy of existing regulatory mechanisms analysis included: international trade regulations, foreign nation regulations (*i.e.,* domestic laws), law enforcement, U.S. Federal laws, and U.S. state and territorial laws. The ERA group ranked the existing conch fishery regulations employed by foreign nations to be ''high risk'' threat, which indicates that this threat poses a danger of extinction for queen conch in the near future. The ERA group rankings indicate that the law enforcement of the existing fisheries regulations, as well as international trade regulations, are ''increasing risk'' threats, indicating that they thought the present risk to queen conch is low or moderate, but is likely to increase to high risk in the foreseeable future if present conditions continue. Lastly the ERA group ranked the existing fishery regulations in the U.S. Federal and U.S. state and territorial regulations as a ''low risk'' threat, which indicates that the members thought that this threat may affect species' status, but only to a degree that it is unlikely that this threat significantly elevates risk of extinction.

In 1990, the Parties to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region included queen conch in Annex II of its Protocol Concerning Specially Protected Areas and Wildlife (SPAW Protocol) as a species that may be used on a rational and sustainable basis and that requires protective measures. In 1992, queen conch were added to Appendix II of CITES, which is an international agreement between governments established with the aim of ensuring that international trade in specimens of wild animals and plants does not threaten their survival. Appendix II includes species that are not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival. International trade of Appendix II species is permitted when export permits are granted from the country of origin. In order to issue an export permit, the exporting country must find that the animals were legally obtained and their export will not be detrimental to the survival of the species in the wild (referred to as a ''non-detriment finding'').

The fishery management authorities (responsible for making non-detriment findings) of the states of export have found it difficult to make the required non-detriment findings necessary for issuing export permits under CITES Appendix II (Ehrhardt and Valle-Esquivel, 2008). The regional biological status and trade status of queen conch were reviewed by the CITES in 1995 and 2001 under the Significant Trade Review process. The Significant Trade Review process is required when there is concern about levels of trade in an Appendix II species. These reviews were initiated because of the continuing growth and export of the conch fishery and problems with enforcement in several range states. The latest review (Theile, 2001) concluded that the majority of queen conch populations were in decline due to over-exploitation. Some populations were showing little signs of recovery despite fishery closures and some showed signs of potential recruitment failure. Only a few countries had conch populations that were considered stable and information was lacking for a number of countries. The review characterized the majority of queen conch populations as over-exploited with harvest in some areas consisting of juveniles and an increasing shift in fishing effort to deeper waters. As a result of these reviews, queen conch trade was suspended for some countries. There are several countries whose exports of queen conch have been periodically banned by CITES: Dominican Republic, Honduras, Haiti, Antigua and Barbuda, Barbados, Trinidad and Tobago, and Grenada. Haiti and Grenada are the only two countries where suspensions remain in place (Meadows and Garcia-Moliner, 2012). Poaching and illegal trade in queen conch remains a significant problem in the wider Caribbean region (CITES, 2003; NMFS, 2014a; NMFS, 2014b). Recently, in a separate action, the European Union issued a ban on imports from any fish caught on Belize vessels, due to the country's inability to stem illegal fishing (Nielsen, 2014).

Although there have been difficulties in implementing CITES in relation to queen conch, CITES has proven to be a useful tool in conch harvest regulation. Through CITES a number of trade embargos have been implemented. These embargos do not stop all harvest in the affected countries, as there still is poaching and harvest for domestic consumption. However, we believe these embargos reduced the numbers of conch harvested due to limited markets, as the United States imports approximately 80 percent of the annual queen conch catch (Meadows and Garcia-Moliner, 2012). CITES, Article IV (related to Appendix-II species) states that, ''an export permit shall only be granted when . . . a scientific authority of the State of export has advised that such export will not be detrimental to the survival of that species.'' There are no requirements regarding how a scientific authority should complete a ''non-detrimental finding.'' However, in making their non-detrimental findings, exporting countries should consider total conch mortality, which includes domestic and export harvest, and illegal, unreported, and unregulated (IUU) fishing. Therefore, it is important that the scientific authorities follow the guidance on making non-detrimental findings (Rosser and Haywood, 2002), as well as documented methodologies, in order to facilitate the formulation of non-detriment findings, and to make more complete and scientifically sound the evaluations required to improve the implementation of the CITES. A number of countries and territories in the queen conch's range have regulatory mechanisms that are intended to manage harvest. They generally consist of minimum size or weight restrictions, closed seasons or spatial closures, harvest quotas, and gear restrictions, or a combination of these (Berg and Olsen, 1989; Chakalall and Cochrane, 1997).

The local overexploitation of queen conch stocks has resulted in total conch

fishery closures in Aruba, Bermuda, Costa Rica, Florida (U.S.), and Venezuela. In 2012, the Mexican Government closed the Chinchorro Banks to conch harvest. This closure will remain in effect until February 2017 (Aldana Aranda GCFInet communication).

We attempted to compile regulations specific to queen conch harvest for all range countries, but we were unable to find regulations specific to queen conch harvest for Barbados, Brazil, Montserrat, Panama, and Trinidad and Tobago. Several patterns emerged from the compilation and evaluation of existing regulatory mechanisms. First, regulatory mechanisms vary between countries, with most including: export quotas and caps on harvest, ban on SCUBA and/or hookah gear, minimum size, minimum weight, seasonal and spatial closures or some combination of those. Almost all the countries with significant conch fisheries (*e.g.,* Antigua and Barbuda, Belize, the Bahamas, Dominican Republic, Jamaica, Nicaragua, and Mexico) and some with limited or no harvest (The British Virgin Islands, the Cayman Islands, Colombia, Cuba, Puerto Rico, and U.S. Virgin Islands) have seasonal closures that vary in duration, but generally occurr during mating months to protect reproductively active stocks. There are a few countries that have significant conch fisheries, but do not have regulations that include a closed season (*e.g.,* Honduras, St. Kitts and Nevis). The closed season in the Turks and Caicos only prohibits queen conch exports during conch mating seasons, but not does not ban harvest during that time. Several countries with limited conch fisheries do not have closed seasons (*e.g.,* the Caribbean Netherlands, Grenada, Haiti, Martinique, St Lucia, and St. Vincent).

The restriction of SCUBA and hookah gear limits the depth of hand harvest and consequently protects queen conch that may be distributed in deep waters. It also limits the time a person can stay underwater to harvest conch, reducing catch rates. The use of SCUBA and hookah gears to harvest queen conch is prohibited in the Cayman Islands, Colombia, Cuba, and Turks and Caicos. There are no regulations that prohibit SCUBA or hookah to harvest queen conch in Antigua and Barbuda, Nicaragua, Mexico, Haiti, Honduras, Dominican Republic, Caribbean Netherlands (exception Saba Bank), Grenada, St. Lucia, and St Vincent and Grenadines. SCUBA is prohibited in Jamaica, Belize, and Martinique, but not hookah gear. Two countries allow the use of SCUBA or hookah, but only by permit: the Bahamas and St. Kitts and Nevis. Some areas have blanket prohibitions for the use of SCUBA or hookah in some locations while permitting it in others. In the U.S. Virgin Islands and Puerto Rico, SCUBA and hookah are allowed in territorial waters, but not Federal waters. The British Virgin Islands prohibits SCUBA in MPAs and Fishery Priority Areas. Seasonal and spatial closures and gear restrictions may reduce conch harvest, protect reproductively active stocks, and potentially conserve unexploited deep-water habitats; however, enforcement has been inconsistent to non-existent in many jurisdictions, which allows significant illegal collection and poaching.

Restricting harvest to only larger queen conch conserves reproductive capacity by ensuring an individual can contribute to at least one reproductive season (Stoner *et al.,* 2012b). Minimum size regulations for queen conch range from 18 to 22.9 cm in shell length across the Caribbean, with unprocessed meat (i.e., animal is removed from shell; meat is not cleaned or filleted) weight from about 225 to 280 gr. The size of a queen conch is known to vary given the species' highly plastic shell morphology, with variable growth rates across the range (SEDAR, 2007; Ehrhardt and Valle-Esquivel, 2008). Consequently, basic dimensions such as shell length and weight are not reliable indicators of queen conch maturity, and based on current literature, the existing shell size regulations in many range states would allow for the legal harvest of conch considered to be juveniles (Stoner *et al.,* 2012b). A review of fishing regulations concluded that minimum sizes set by fishery managers are allowing immature queen conch to be harvested legally in most Caribbean nations, providing at least a partial explanation for overexploitation (Stoner *et al.,* 2012b). In addition, the ''flared lip'' criterion for legal harvest does not guarantee that the conch is mature. Harvest of conch with a flared shell lip is required in a number of countries to ensure conch are mature (British Virgin Islands, Caribbean Netherlands, Grenada, Jamaica, Nicaragua, Martinique, Puerto Rico, U.S. Virgin Island, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines). Other countries require a shell-lip thickness between 5 to 10 mm (Antigua and Barbuda, Cuba, Martinique, Nicaragua, Puerto Rico, and the U.S. Virgin Islands).

Several studies have found that the shell thickness is a better criterion to ensure that those harvested are not juveniles (Appeldoorn, 1994; Clerveaux *et al.,* 2005; Cala *et al.,* in press; Stoner *et al.,* 2012b). Recent information indicates that shell thickness at reproductive maturity is much higher than previous estimates. Stoner *et al.* (2012b) found that the minimum shell thickness for reproductive maturity was 12 mm for females and 9 mm for males, and 50 percent maturity for a population was attained at 26 mm for females and 24 mm for males. Based on these findings, a shell thickness of at least 15 mm was recommended to be set throughout the Caribbean region to ensure harvested individuals are mature.

The current lip thickness requirements in countries that regulate based on lip thickness are, therefore, less effective at ensuring sustainability of the population. Moreover, there are no accompanying regulations that require queen conch to be landed in shell. The majority of range states extract the conch from its the shell at sea. This makes it difficult to determine whether the minimum size requirements are adhered to by conch fisheries.

MPAs are another common regulatory measure. The level of regulatory protection varies by MPA. Reporting on the protection of coral reefs globally, Mora *et al.* (2006) reported 5.3 percent of global reefs were in MPAs that allowed take, 12 percent were inside multi-use MPAs that were defined as zoned areas including take and no-take grounds, and 1.4 percent were in no-take MPAs. The term MPA can be broadly applied to include a wide range of regulatory structures including marine reserves, marine parks, and protected areas. Many MPAs have now been established throughout the world with the primary goals of preserving natural community and population structures while helping to sustain harvested species. Specifically, some Caribbean countries (e.g., Jamaica, Turks and Caicos, Honduras, Belize, the Bahamas, and Cuba) that have extensive conch harvest have established no-take reserves or MPAs (NMFS, 2014b). There is evidence that no-take marine reserves can be successful fisheries management tools. Appeldoorn (2004) suggested that the most productive queen conch areas be included in MPAs to offer an added degree of precaution for stock conservation. Many have been shown to increase conch populations, either relative to areas outside of the reserves or to the same area before the reserve was established (Stoner and Ray, 1996; Tewfik and Bene, 2000; Grabowshi and Tewfik, 2000; Roberts *et al.,* 2001; Glazer *et al.,* 2003; Chan *et al.,* 2013). An increase in abundance within an MPA can ''spill over'' into adjacent

areas through emigration (Roberts, 1995; Glazer *et al.,* 2003) and may also increase larvae supply to sink populations (Roberts *et al.,* 2001; Glazer *et al.,* 2003). An MPA may function as a ''source'' of recruits by protecting reproductive stocks and thereby reducing the likelihood of Allee effects occurring (Glazer *et al.,* 2003). The effectiveness of an MPA depends on the implementation and enforcement of regulations, but also on reserve location (Halpern, 2003).

In summary, there are numerous regulatory strategies used by the various jurisdictions in the range of queen conch to regulate harvest, including seasonal and spatial closures, minimum size limits, MPAs and no take zones, and gear limits. The ERA group rankings indicate that regulatory enforcement and the inadequacy of existing fishery regulations in foreign countries were ''increasing risk'' threats. The members of the group also ranked the regulatory measures in foreign countries as an ''increasing risk'' threat. The ERA group ranking indicates that the members thought that the existing regulatory measures in the U.S. Federal and state waters were a ''low risk'' threat. The best available information indicates that most of the existing regulations designed to regulate conch harvest are inadequate and do not prevent overharvest or the harvest of juvenile conch. It is also difficult to measure regulatory compliance; it is likely that in some cases, enforcement is non-existent, which allows for significant illegal harvest, juvenile harvest, and poaching.

The creation of MPAs and no take zones have benefited queen conch stocks by protecting those areas from harvest (CITES, 2012). And although there have been difficulties in implementing CITES in relation to queen conch, CITES has proven to be a useful tool in conch harvest regulation. Through CITES a number of trade embargoes have been implemented. These embargoes do not stop all harvest in the affected countries, as there still is poaching and harvest for domestic consumption; however, these embargoes most certainly reduce the numbers of conch harvested. CITES member countries are also actively working together to improve data gathering and reporting and coordinating conservation efforts. We believe that the implementation of CITES adds an extra layer of conservation and protection that helps to reduce the impacts of the inadequate regulatory mechanisms found in countries.

The ERA group's ''increasing risk'' ranking indicate that members thought that international trade regulations, existing fishery regulations in foreign countries, and regulatory enforcement are significant threats, where the present risk is low or moderate, but is likely to increase to high risk in the foreseeable future if present conditions continue. We also believe that the inadequacy of existing regulatory mechanisms is a significant threat to queen conch. However, based on the seasonal fishery closures that protect the reproductive adults, the establishment of MPAs and no-take zones, and implementation of CITES in relation to queen conch, we have determined that the current and foreseeable future impacts associated with these threats are not affecting the queen conch to such an extent that they represent a risk to persistence of the species.

Other Natural or Manmade Factors Affecting Its Continued Existence

Ocean acidification is a result of global climate change and is considered here because the effect is a result of human activity and affects individual animals. The ERA group ranked the threat of ocean acidification on the queen conch as a ''moderate risk'' indicating that the threat contributes significantly to long term risk of extinction, but does not constitute a danger of extinction in the near future.

Ocean acidification is a term referring to changes in ocean carbonate chemistry, including a drop in the pH of ocean waters, that is occurring in response to the rise in the quantity of atmospheric CO_2 and the partial pressure of CO_2 ($_pCO_2$) absorbed in oceanic waters (Caldeira and Wickett, 2003). As $_pCO_2$ rises, oceanic pH declines. Carbonate ions are used by many marine organisms to build calcium carbonate shells. One well-known effect of ocean acidification is the lowering of calcium carbonate saturation states (i.e., the concentration of carbonate ions in water needed to precipitate out of solution to create a shell), which impacts shell-forming marine organisms (Doney *et al.,* 2009). Some molluscs' shells are formed with a particular calcium carbonate crystal called aragonite; the concentration of the carbonate ions in the ocean relative to this crystal is measured as the aragonite saturation state. Decreasing pH and aragonite saturation state are expected to have a major impact on shelled molluscs and other marine organisms this century (Fabry *et al.,* 2008). Current atmospheric CO_2 levels have resulted in a Caribbean open-ocean aragonite saturation state of less than 3.8. A Caribbean open-ocean aragonite saturation state of 4.0 equated to an atmospheric CO_2 level stabilized at approximately 360 ppm, and models suggest a saturation state of 3.0 equates to an atmospheric CO_2 level of 530–570 ppm (Simpson *et al.* 2009).

The queen conch secretes a shell comprised of the aragonite form of calcium carbonate (Kamat *et al.,* 2000). The queen conch begins to develop the shell during its larvae life stage; the shell thickens as the conch ages. The conch's shell supports its living tissue, protects against predators, and excludes sediments from entering its mantle cavity. The effects of ocean acidification on shell growth and production vary among molluscs (Gazeau *et al.,* 2013). Increasing acidification can affect the conch's shell production in one of two, not mutually exclusive, ways. The first is by requiring more energy for shell formation, at a cost to growth rate (Doney, 2006). Alternatively, conch could incorporate the less available calcium carbonate in their shell, making a less dense and weaker shell (Doney, 2006).

We were unable to locate information related specifically to ocean acidification and its effects on queen conch, but we were able to locate some information on other strombids (e.g., *Strombus luhuanus* and *Strombus alatis*), which also form aragonite shells. Reduced shell growth was observed in *Strombus luhuanus* when grown in 560 ppm CO_2 over a 6-month period (Doney *et al.,* 2013). *Strombus alatis* showed no effects of pH within the range of projected values for the end of the century, but significant effects are projected to occur by 2300 at pH levels between -0.6 and -0.7 below current levels (Gazeau *et al.,* 2013).

Changing climate may also have other, more subtle effects that could impact queen conch larval dispersal and habitat availability. Currents are expected to be affected under future climates (Liu *et al.,* 2012), which could change the rate and direction of larval dispersal and population connectivity. Effects of these changes are not known; results could be either positive or negative to conch populations. Habitat may change as a result of climate change and impact settlement rates. The increase in surface water temperature could influence the timing of conch reproduction. Hurricane activity has been found to negatively impact queen conch populations in Turks and Caicos (DEMA, 2012). If the frequency/intensity of extreme weather conditions increases with sea surface temperatures as some predict, reductions in the local queen conch populations may occur.

Life-history characteristics were also considered because there are certain

characteristics that can increase the queen conch's vulnerability to threats under this factor. The vulnerable life history characteristic of most concern for queen conch is the proximity of adult conch aggregation/mating/egg laying and juvenile nursery areas to the shore and in shallow waters. The close proximity to shore/shallow water locations makes the queen conch more vulnerable to fisheries during important stages of its life history, as these areas are accessible and easily exploitable. These life-history characteristics increase the species' vulnerability and have the potential to result in future, further population declines driven by the primary threats of overharvest and the inadequacy of the regulatory mechanisms designed to control harvest.

In summary, the ERA group ranked the threat of ocean acidification on the queen conch as a ''moderate risk'' indicating that the threat contributes significantly to long-term risk of extinction, but does not constitute a danger of extinction in the near future. The impacts from ocean acidification and climate change are not projected to affect aragonite saturation states to a point where queen conch will be threatened within the foreseeable future. While the threat of ocean acidification and climate change could represent a potential future threat, at this time, ocean acidification and global warming are not negatively affecting the species.

The ERA group ranked the species vulnerable life-history characteristics as ''increasing risk,'' indicating that, at present, the extinction risk to queen conch resulting from vulnerable life-history characteristics is low or moderate, but is likely to increase to high risk in the foreseeable future if present conditions continue. As discussed above, the queen conch has some life-history characteristics that make it more vulnerable to overexploitation, but conversely, the species also has some life-history characteristics that function as a buffer against overexploitation. For example, it reaches reproductive maturity relatively early in age and is highly productive. The queen conch is long lived, up to 30 years, and reaches reproductive maturity relatively early at about 4 years of age. The queen conch is also highly fecund, producing up to 13 egg masses a year, with each egg mass containing anywhere from 500,000 to 750,000 eggs. In addition, conch larvae are planktonic and have high dispersal capabilities; which allows them to recruit and reestablish overfished populations. There are some aspects of the species life-history strategy that increase its vulnerability to the principle threat of commercial harvest, but the species' reproductive rate and larval dispersal make them more resilient to this threat. Therefore, we have determined that the current and foreseeable future impacts associated with threats due to other natural or manmade factors are not affecting the queen conch to such an extent that they represent a risk to persistence of the species.

Conservation Efforts

In May 2012, a Queen Conch Expert Workshop was convened to develop recommendations for the sustainable and legal management of the species. The results of the Expert Workshop included recommendations on data collection, harvest strategies, precautionary controls, fishing capacity, ecosystem management, decision-making and enforcement and compliance. In Panama City, Panama, in October 2012, these recommendations were reviewed and adopted by the Working Group on Queen Conch of the Western and Central Atlantic Fisheries Commission of the FAO (WECAFC), the Caribbean Fishery Management Council (CFMC), the Organization of the Fishing and Aquaculture Sector of Central America (OSPESCA) and the Caribbean Regional Fisheries Mechanism (CRFM). In the Declaration of Panama that resulted from the meeting, the group made further recommendations, including support of the development of a regional plan for the management and conservation of queen conch. The other main recommendation requires countries and inter-governmental organizations of the region to collaborate more closely with CITES to support the sustainable and legal harvest and trade of the species.

In March 2013, the Sixteenth Meeting of the Conference of the Parties to CITES (CoP16) adopted several decisions to promote regional cooperation on the management and trade of queen conch (CITES Decisions 16.141–16.148). Among the actions called for in these decisions, range states are encouraged to adopt the recommendations stemming from the meeting of the Working Group on Queen Conch (the Declaration of Panama) discussed above; participate in the development of national, sub-regional, and regional plans for queen conch management and conservation, including best practices and guidance for making non-detriment findings; develop and adopt conversion factors to standardize data reported on catch and trade of meat and other products of queen conch; explore ways to enhance traceability of queen conch in trade; and collaborate on joint research programs.

Recently, in March 2014, the 15th biennial meeting of the WECAFC was convened in Trinidad and Tobago. The WECAFC adopted specific management measures for queen conch that emulated the Declaration of Panama and recommended that members implement them. The WECAFC members considered IUU fishing of queen conch a major problem in the region, and requested members renew their efforts to deter fishers from IUU fishing (WECAFC, 2014; Daves, 2014).

In summary, there are conservation efforts and new management measures being considered that are expected to benefit the species. However, at this time, it is not possible to determine any future positive benefit to the species that may result from efforts currently being contemplated by fisheries managers. In addition, we cannot determine which range states/entities, if any, will implement these conservation efforts or new management measures. Due to uncertainties surrounding their implementation we cannot be reasonably certain that these benefits will occur.

Significant Portion of Its Range

The ESA definitions of ''endangered species'' and ''threatened species'' refer to two spatial scales: A species' entire range or a significant portion of its range. Our framework initially evaluated the queen conch throughout its range to determine extinction risk. We have found that listing the queen conch is not warranted at the spatial scale of its entire range, so we must consider if a ''significant portion of its range'' is at higher risk, such that it elevates the entire species' status to endangered or threatened. However, this evaluation can only be conducted if a ''significant portion of its range'' where the species' status is more imperiled can be identified.

The U.S. Fish and Wildlife Service (FWS) and NMFS—together, ''the Services''—have jointly finalized a policy interpreting the phrase ''significant portion of its range'' (SPOIR) (79 FR 37578; July 1, 2014). The SPOIR policy provides that: (1) If a species is found to be endangered or threatened in only a significant portion of its range, the entire species is listed as endangered or threatened, respectively, and the ESA's protections apply across the species' entire range; (2) a portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout its range, and the portion's contributions to the viability of the species is so important that, without the members in that portion, the species

would be in danger of extinction or likely to become so in the foreseeable future, throughout all of its range; and (3) the range of a species is considered to be the general geographical area within which that species can be found at the time we make any particular status determination. We evaluated whether substantial information indicated that (i) the portions may be significant and (ii) the species occupying those portions may be in danger of extinction or likely to become so within the foreseeable future (79 FR 37578; July 1, 2014). Under the SPOIR policy, both considerations must apply to warrant listing a species as threatened or endangered throughout its range based upon its status within a portion of the range.

As discussed above, the available information on the gene flow of queen conch is limited, but there is some evidence of possible genetic separation occurring between some queen conch populations. Queen conch larvae transport models show that there is low probability of connectivity between queen conch in Caribbean Mexico, Alacranes Reef in the southern Gulf of Mexico, and downstream populations in Florida, Cuba, and northwest to the Bahamas (Paris *et al.,* 2008). In Mexico mitochondrial DNA marker analysis showed that queen conch at the Alacranes Reef were genetically distinct from conch populations at Cozumel and Banco Chinchorro in Mexico that were separated by 280 and 400 miles, respectively (Perez-Enriquez *et al.,* 2011). Similarly, in the Bahamas, preliminary data detected genetic separation in queen conch populations that were located approximately 310 miles from one another (Banks *et al.,* 2014). In addition, two nearby populations of queen conch in St. Lucia were found to be genetically different from each other, most likely a result of the east and west currents that prohibit the exchange of larvae between the two locations (Mitton *et al.,* 1989). However, we did not find that the available information supported a conclusion that the loss of genetic diversity from one portion would result in the remaining population lacking enough genetic diversity to allow for adaptations to changing environmental conditions.

The consequences of decades of overharvest have resulted in estimates indicating that over 60 percent of habitat, in the Caribbean, ranging from 0 to 30 m, have adult conch densities below the 100 individuals/ha threshold. However, as noted previously, there are significant questions regarding whether these densities are reflective of actual population status. If accurate, the extremely low density conch populations in these areas are at risk of depensatory processes or Allee effects (such as reduced likelihood of finding a mate and recruitment success). However, the SFD assessment (NMFS, 2014c) indicates that conch landings have remained stable from 2000 through 2011 at high levels, which is inconsistent with the low density estimates. Also, with conch being highly fecund (i.e., producing 3 to 10 million eggs per individual per season), stability of harvest over a long term may indicate that recruitment is occurring from areas that are not fished, such as deep water areas, or from areas where mating is occurring at a higher rate, because conch densities are above the 100 adult conch/hectare threshold, and conch larval can disperse over a broad geographic range. Based on the relative genetic homogeneity of the species, high fecundity/productivity, and expansive larval dispersal capabilities, even areas below the 100 adult conch/ha threshold are maintaining stable landings. Therefore, after a review of the best available information, we did not find substantial evidence that would indicate that the loss of queen conch in any portion of the species' range would limit the species to the point where it would be in danger of extinction throughout all of its range, or likely to become so in the foreseeable future. In addition, there is no evidence that suggests that there is a portion of the species' range which encompasses aspects that are important to the species' specific life history events, where the loss of that portion would severally impact the growth, reproduction, or survival of the species as a whole. We have evaluated the species throughout its range to determine if there is a portion that is significant and have concluded that the information does not indicate any portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction. Consequently, we are unable to identify a ''significant portion of its range'' for the queen conch that would change the determination relative to the status of the species rangewide.

Listing Determination

Section 4(b)(1) of the ESA requires that NMFS make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We have independently reviewed the best available scientific and commercial information including the petition, public comments submitted on the 90-day finding (77 FR 51763; August 27, 2012), the status report (NMFS, 2014a), and other published and unpublished information. We considered each of the Section 4(a)(1) factors to determine whether it presented an extinction risk to the species. As required by the ESA, Section 4(b)(1)(a), we also looked at whether there are any conservation efforts to protect queen conch by states or foreign nations. We were unable to identify any conservation efforts that were reasonably certain to occur that would benefit the species. As previously explained, we could not identify a significant portion of the species' range, where its status is different than that we have identified for the species rangewide. Therefore, our determination is based on a synthesis and integration of the foregoing information, factors and considerations, and their effects on the status of the species throughout its entire range.

We conclude that the queen conch is not presently in danger of extinction, nor is it likely to become so in the foreseeable future throughout its entire range. The species is made up of a single population over a broad geographic range, and its current range is indistinguishable from its historical range and there is little evidence of significant habitat loss or destruction. The species possesses life-history characteristics that increase its vulnerability to harvest, but it also possesses life-history characteristics that are conducive to population resilience. While there are significant questions as to the reliability of the density estimates, the best available information indicates that there are localized population declines. The best available survey data also shows evidence that there are populations which are currently suffering from depensatory processes (such as reduced likelihood of finding a mate and recruitment success). Nonetheless, queen conch harvest has remained high, as indicated by the landings, indicating that conch mating and larvae recruitment is occurring, which further reinforces the questions regarding the accuracy of the density estimates.

The ERA group's threats assessment indicated that the primary threat to queen conch is harvest; however, taking into account regulatory changes and missing landings, the cumulative trend in landings appear to be stable (NMFS, 2014b). In fact, there is a stable trend in landings from 1993 forward, which also corresponds well with improvements in

data reporting (NMFS, 2014b). There are existing regulatory mechanisms throughout the species' range—although catch limits and seasonal and spatial closures appear to be the most effective in addressing the primary threat to the species (harvest). There are also significant concerns related to the enforcement of existing regulations; however, CITES has embargoed many countries for not complying with their obligations under the treaty. In some cases, CITES references the lack of regulatory enforcement as a factor that contributed to embargo decisions. In addition, despite continued deficiencies related to enforcement and regulatory compliance in queen conch fisheries, this threat does not appear to be impacting the species' continued existence, as conch landings trends appear to be stable.

Although the global population has likely declined from historical numbers, the species still occurs over a broad geographic range, has dispersal mechanisms that have ensured high degrees of genetic mixing, and its current range is unchanged from its historical range. In addition, there is little evidence to suggest that disease or predation is contributing to increasing the risk of extinction of the species.

Based on these findings, we conclude that the queen conch is not currently in danger of extinction throughout all or a significant portion of its range, nor is it likely to become so in the foreseeable future. While ongoing conservation efforts could be more effective, since the queen conch is not currently in danger of extinction throughout all or a significant portion of its range or likely to become so in the foreseeable future, we do not need to rely on the effectiveness of conservation efforts to make this finding. Accordingly, the queen conch does not meet the definition of a threatened or endangered species, and our listing determination is that the queen conch does not warrant listing as threatened or endangered at this time.

References

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 30, 2014.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2014–26324 Filed 11–4–14; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0066, Financial Resource Requirements for Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to financial resource requirements for derivatives clearing organizations.

DATES: Comments must be submitted on or before January 5, 2015.

ADDRESSES: You may submit comments, identified by ''Financial Resource Requirements for Derivatives Clearing Organizations'' by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- Mail: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- Hand Delivery/Courier: Same as Mail, above.
- Federal eRulemaking Portal: *http://www.regulations.gov/search/index.jsp.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Eileen Chotiner, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 418–5467; email: *echotiner@cftc.gov,* and refer to OMB Control No. 3038–0066.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 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 provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the collection of information listed below.

Title: Financial Resource Requirements for Derivatives Clearing Organizations (OMB Control No. 3038–0066). This is a request for extension of a currently approved information collection.

Abstract: Part 39 of the Commission's regulations establishes financial reporting requirements for derivatives clearing organizations (''DCOs''), which are required to be registered with the Commission. The Commission will use the information in the reports to assess the DCOs' compliance with the financial resource requirements for DCOs prescribed in the Commodity Exchange Act and Commission regulations.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The respondent burden for this collection is estimated to be 10 hours per response.

Respondents/Affected Entities: Derivatives clearing organizations.

Estimated number of respondents: 14.

Estimated total annual burden on respondents: 25,760 hours.

Frequency of collection: Quarterly and on occasion.

Dated: October 31, 2014.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2014–26275 Filed 11–4–14; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

DEPARTMENT OF EDUCATION

National Assessment Governing Board Quarterly Board Meeting

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Announcement of open and closed meetings.

SUMMARY: This notice sets forth the agenda for the November 20–22, 2014 Quarterly Meeting of the National Assessment Governing Board (hereafter referred to as Governing Board). This notice provides information to members of the public who may be interested in attending the meeting or providing written comments on the meeting. The notice of this meeting is required under Section 10(a)2) of the Federal Advisory Committee Act (FACA).

DATES: The Quarterly Board meeting will be held on the following dates: November 20, 2014 from 9:00 a.m. to 6:00 p.m.; November 21, 2014 from 8:30 a.m. to 5:00 p.m.; November 22, 2014 from 7:30 a.m. to 12:00 p.m.

ADDRESSES: The Fairfax at Embassy Row, 2100 Massachusetts Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Executive Officer, 800 North Capitol Street NW., Suite 825, Washington, DC 20002, telephone: (202) 357–6938, fax: (202) 357–6945.

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: The National Assessment Governing Board is established under Title III—National Assessment of Educational Progress Authorization Act, Public Law 107–279. Information on the Board and its work can be found at *www.nagb.gov.*

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress (NAEP). The Board's responsibilities include the following: Selecting subject areas to be assessed, developing assessment frameworks and specifications, developing appropriate student achievement levels for each grade and subject tested, developing standards and procedures for interstate and national comparisons, improving the form and use of NAEP, developing guidelines for reporting and disseminating results, and releasing initial NAEP results to the public.

Detailed Meeting Agenda: November 20–November 22, 2014

November 20: Committee Meetings

Assessment Development Committee: Closed Session: 9:00 a.m.–3:30 p.m.

Assessment Literacy Work Group: Open Session: 12:00 p.m.–4:00 p.m.

Executive Committee: Open Session: 4:30 p.m.–5:00 p.m.; Closed Session: 5:00 p.m.–6:00 p.m.

November 21: Full Board and Committee Meetings

Full Board: Open Session: 8:30 a.m.–9:45 a.m.; Closed Session 12:45 p.m.–1:45 p.m.; Open Session 2:00 p.m.–2:30 p.m.; Closed Session 2:45 p.m.–4:15 p.m. Board Member Ethics Training: 4:30 p.m.–5:00 p.m.

Committee Meetings

Reporting and Dissemination Committee (R&D): Open Session: 10:00 a.m.–12:30 p.m.

Committee on Standards, Design and Methodology (COSDAM): Open Session: 10:00 a.m.–12:30 p.m.

Assessment Development Committee (ADC): Open Session: 10:00 a.m.–11:45 p.m.; Closed Session: 11:45 p.m.–12:30 p.m.

November 22: Full Board and Committee Meetings

Nominations Committee: Closed Session: 7:30 a.m.–8:15 a.m.

Full Board: Closed Session: 8:30 a.m.–9:30 a.m. Open Session 9:30 a.m.–12:00 p.m.

On November 20, 2014, from 9:00 a.m. to 3:30 p.m. the Assessment Development Committee will meet in closed session to review assessment items for the NAEP transition to technology-based assessments (TBA). The briefing will include secure items in reading and mathematics at grades 4 and 8. These secure materials are paper-and-pencil items in reading and mathematics that are being transformed into technology-based assessment items for the 2016 pilot, in preparation for the 2017 operational assessment. Following the TBA briefing, the ADC will review secure mathematics materials for scenario-based tasks that are being developed for grades 4 and 8 for the 2016 pilot, in preparation for the 2017 operational assessment. The Committee's reviews and discussions on secure test items cannot be discussed in an open meeting to protect the confidentiality of the secure assessment materials. Premature disclosure of these results would significantly impede implementation of the NAEP assessment program, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 United States Code.

The Board's Assessment Literacy Work Group will meet in open session on November 20, 2014, from 12:00 p.m. to 4:00 p.m. The Work Group will discuss assessment literacy strategies and timelines related to their work on supporting a better understanding of educational tests among parents and members of the general public.

The Board's Executive Committee will convene in open session on November 20, 2014 from 4:30 p.m. to 5:00 p.m. to review and discuss the November 21–22, 2014 Board meeting agenda, receive updates on the NAEP budget, assessment schedule, and reauthorization, and discuss Board Committee issues and challenges to be addressed by the respective Board Committees.

Following this session, the Executive Committee will meet in closed session from 5:00 p.m. to 6:00 p.m. to receive and discuss cost estimates on various

options for implementing NAEP for 2014–2018. The implications of the cost estimates and funds in support of the NAEP Assessment Schedule and future NAEP activities will also be discussed. This part of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program by providing confidential cost details and proprietary contract costs of current contractors to the public. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b of Title 5 U.S.C.

On November 21, 2014, the full Board will meet in open session from 8:30 a.m. to 9:30 a.m. The Board will review and approve the November 21–22, 2014 Board meeting agenda and meeting minutes from the July 31–August 2, 2014 Quarterly Board meeting. This session will be followed by the Chairman's remarks. The Chairman will then introduce the new Governing Board members who will provide remarks. Thereafter, the Executive Director of the Governing Board will provide a report, followed by an update on the Institute of Education Sciences (IES) from the Acting Director and an update on NCES from the Acting Commissioner. The Board will recess for Committee meetings from 10:00 a.m. to 12:30 p.m.

The Reporting and Dissemination Committee and the Committee on Standards, Design and Methodology (COSDAM) will meet in open sessions from 10:00 a.m. to 12:30 p.m. to discuss their ongoing policy issues. The Assessment Development Committee will meet in open session from 10:00 a.m. to 11:45 a.m. to discuss ongoing work and in closed session from 11:45 a.m. to 12:30 p.m. During the closed session, the Committee will receive a briefing on the 2011 NAEP Writing assessment which will include secure NAEP writing prompts in grades 4, 8, and 12 which were administered in 2011. These prompts will be re-administered in 2017 to report on trends in student writing achievement at grades 4, 8, and 12. The Committee's reviews and discussions on secure writing prompts cannot be discussed in an open meeting to protect the confidentiality of the secure assessment materials. Premature disclosure of these results would significantly impede implementation of the NAEP assessment program, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 United States Code.

Following the Committee meetings, the Board will convene in closed session from 12:45 p.m. to 1:45 p.m. to receive a briefing on a NAEP report titled, Mapping State Proficiency Standards onto NAEP Scales: 2011–2013. The Board will receive an embargoed briefing on preliminary results, which will include assessment data and results that cannot be discussed in an open meeting prior to their official approval and release in early 2015 by the National Assessment Governing Board. Premature disclosure of these results would significantly impede implementation of the NAEP assessment program, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 United States Code.

On November 21, 2014 from 2:00 p.m. to 2:30 p.m., the Board will meet in open session. The Secretary of Education, Arne Duncan, will administer the Oath of Office to new members and make remarks to the Board.

From 2:45 p.m. to 4:15 p.m., the Board will meet in closed session to discuss the NAEP Schedule of Assessments and NAEP budget. This session will be an in-depth briefing and discussion to examine specific costs for assessing NAEP subjects, including cost projections for moving NAEP to technology-based assessments, which will impact the NAEP schedule from 2015–2024. This detailed briefing will also allow new Board members to become thoroughly familiar with NAEP budget details in preparation for future action on the NAEP Schedule of Assessments in upcoming 2015 Board meetings. This part of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program by providing contractors attending the Board meeting an unfair advantage in procurement and contract negotiations for NAEP. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b of Title 5 U.S.C.

Following this closed session, Board members will receive their annual ethics briefing from the U.S. Department of Education, Office of General Counsel from 4:30 p.m. to 5:00 p.m. The November 21, 2014 session will adjourn at 5:00 p.m.

On November 22, 2014, the Nominations Committee will meet in closed session from 7:30 a.m. to 8:15 a.m. to discuss candidates for the eight Board vacancies for terms beginning on October 1, 2015. The Committee's discussions pertain solely to internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of section 552b(c) of Title 5 of the United States Code.

On November 22, 2014, the Board will meet in closed session from 8:30 a.m. to 9:30 a.m. to receive a briefing and discuss the 2013 NAEP Puerto Rico Mathematics Report. This is an embargoed briefing on preliminary results, which will include assessment data and results that cannot be discussed in an open meeting prior to their official approval and release in December 2014 by the National Assessment Governing Board. Premature disclosure of these results would significantly impede implementation of the NAEP assessment program, and is therefore protected by exemption 9(B) of section 552b(c) of Title 5 United States Code.

From 9:30 a.m. to 10:15 a.m. the Board will receive a briefing on an Inside NAEP series—Recent NAEP Reports and Outreach. Following this session, from 10:30 a.m. to 12:00 p.m. the Board will receive reports from the standing Committees and the Assessment Literacy Work Group, and take action on Committee recommendations. The November 22, 2014 meeting is scheduled to adjourn at 12:00 p.m.

Access to Records of the Meeting: Pursuant to FACA requirements, the public may also inspect the meeting materials at www.nagb.*gov* on Friday, November 21, 2014 by 9:00 a.m. ET. The official verbatim transcripts of the public meeting sessions will be available for public inspection no later than 30 calendar days following the meeting.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the

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

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

Authority: Pub. L. 107–279, Title III—National Assessment of Educational Progress § 301.

Dated: October 31, 2014.

Cornelia S. Orr,

Executive Director, National Assessment Governing Board (NAGB), U.S. Department of Education.

[FR Doc. 2014–26249 Filed 11–4–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Orders Granting Authority to Import and Export Natural Gas, and to Import and Export Liquefied Natural Gas During January 2014

	FE Docket Nos.
ENCANA NATURAL GAS INC.	13–152–LNG
FREEPORT LNG DEVELOPMENT, L.P.	13–148–LNG
COLONIAL ENERGY, INC.	13–156–NG
BROOKFIELD ENERGY MARKETING LP	13–159–NG
ENERGY SOURCE CANADA INC.	14–01–NG
COKINOS ENERGY CORPORATION	14–03–NG
SABINE PASS LIQUEFACTION, LLC	13–121–LNG
GLOBAL PURE ENERGY, LLC	13–158–NG
APPLIED TECHNOLOGIES, LLC	14–02–LNG
RAINBOW ENERGY MARKETING CORPORATION	14–07–NG
WHITE EAGLE TRADING, LLC	14–10–NG

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during January 2014, it issued orders granting authority to import and export natural gas, and to import and export liquefied natural gas (LNG). These orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fossil.energy.gov/programs/gas regulation/authorizations/Orders-2014.html.* They are also available for inspection and copying in the Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on October 27, 2014.

John A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

Appendix

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

3378	01/30/14	13–152–LNG	Encana Natural Gas Inc.	Order granting blanket authority to import/export LNG from/to Canada/Mexico by truck, rail, barge, and non-barge water-borne vessels.
3379	01/09/14	13–148–LNG	Freeport LNG Development, L.P..	Order granting blanket authority to import LNG from various international sources by vessel.
3380	01/16/14	13–156–NG	Colonial Energy, Inc.	Order granting blanket authority to import/export natural gas from/to Canada/Mexico.
3381	01/16/14	13–159–NG	Brookfield Energy Marketing LP	Order granting blanket authority to import/export natural gas from/to Canada.
3382	01/16/14	14–01–NG	Energy Source Canada Inc.	Order granting blanket authority to import/export natural gas from/to Canada.
3383	01/22/14	14–03–NG	Cokinos Energy Corporation	Order granting blanket authority to export natural gas to Mexico.
3384	01/22/14	13–121–LNG	Sabine Pass Liquefaction, LLC	Order granting long-term, multi-contract authority to export LNG by vessel from the Sabine Pass LNG Terminal to Free Trade Agreement Nations.
3385	01/30/14	13–158–NG	Global Pure Energy, LLC	Order granting blanket authority to import/export natural gas from/to Canada.
3386	01/30/14	14–02–LNG	Applied Technologies, LLC	Order granting blanket authority to import/export LNG from/to Canada/Mexico by truck.
3387	01/30/14	14–07–NG	Rainbow Energy Marketing Corporation.	Order granting blanket authority to import/export natural gas from/to Canada/Mexico.
3388	01/30/14	14–10–NG	White Eagle Trading, LLC	Order granting blanket authority to export natural gas to Mexico.

[FR Doc. 2014–26250 Filed 11–4–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–18–000.
Applicants: Perigee Energy, LLC, Great American Power, LLC.
Description: Joint Application of Perigee Energy, LLC and Great American Power, LLC for Authorization under Section 203 of the Federal Power Act.
Filed Date: 10/28/14.
Accession Number: 20141028–5183.
Comments Due: 5 p.m. ET 11/18/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2262–001.
Applicants: Edgewood Energy, LLC.
Description: Compliance filing per 35: J–POWER Supplement to MBR Update in Docket Nos. ER14–2262 & ER14–2263, et al to be effective 10/30/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5023.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER14–2263–001.
Applicants: Shoreham Energy, LLC.
Description: Compliance filing per 35: J–POWER Supplement to MBR Update in Docket Nos. ER14–2262 & ER14–2263, et al to be effective 10/30/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5024.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER14–2591–001.
Applicants: Florida Power & Light Company.
Description: Compliance filing per 35: Florida Power & Light Co.'s Compliance Filing to Order No. 792 & 792–A Errata to be effective 8/4/2014.
Filed Date: 10/28/14.
Accession Number: 20141028–5161.
Comments Due: 5 p.m. ET 11/18/14.

Docket Numbers: ER14–2604–001.
Applicants: Deseret Generation & Transmission Co-operative, Inc.
Description: Compliance filing per 35: OATT Order No. 792 Compliance Filing Revised to be effective 8/3/2014.
Filed Date: 10/28/14.
Accession Number: 20141028–5112.
Comments Due: 5 p.m. ET 11/18/14.

Docket Numbers: ER14–2721–001.
Applicants: Peetz Logan Interconnect, LLC.
Description: Compliance filing per 35: Peetz Logan Interconnect, LLC Order No. 792 and 792–A Errata Compliance Filing to be effective 8/4/2014.
Filed Date: 10/28/14.
Accession Number: 20141028–5164.
Comments Due: 5 p.m. ET 11/18/14.

Docket Numbers: ER14–2722–001.
Applicants: Sagebrush, a California partnership.
Description: Compliance filing per 35: Sagebrush, a California partnership Order No. 792 and 792–A Errata Comp Filing to be effective 8/4/2014.
Filed Date: 10/28/14.
Accession Number: 20141028–5163.
Comments Due: 5 p.m. ET 11/18/14.

Docket Numbers: ER14–2723–001.
Applicants: Sky River LLC.
Description: Compliance filing per 35: Sky River LLC Order No. 792 and 792–A Errata Compliance Filing to be effective 8/4/2014.
Filed Date: 10/28/14.
Accession Number: 20141028–5162.
Comments Due: 5 p.m. ET 11/18/14.

Docket Numbers: ER15–209–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–10–28 SEY, HILLS, StJms-NOC–TM–1 to be effective 12/31/2014.
Filed Date: 10/28/14.
Accession Number: 20141028–5165.
Comments Due: 5 p.m. ET 11/18/14.

Docket Numbers: ER15–210–000.
Applicants: New England Power Company.
Description: Notice of Cancellation of Interconnection Agreement with Centennial Island Hydroelectric Company of New England Power Company.
Filed Date: 10/28/14.
Accession Number: 20141028–5170.
Comments Due: 5 p.m. ET 11/18/14.

Docket Numbers: ER15–211–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 1977R5 Nemaha-Marshall Electric Cooperative NITSA and NOA to be effective 8/1/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5020.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–212–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2900R1 Kansas Municipal Energy Agency NITSA NOA to be effective 8/1/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5037.
Comments Due: 5 p.m. ET 11/19/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–46–001.
Applicants: Entergy Louisiana, LLC, Entergy Texas, Inc.
Description: Supplement to July 30, 2014 Application to amend existing FPA Section 204 authority of Entergy Louisiana, LLC.
Filed Date: 10/28/14.
Accession Number: 20141028–5086.
Comments Due: 5 p.m. ET 11/7/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA14–3–000.
Applicants: Alabama Electric Marketing, LLC, Astoria Generating Company, L.P., Big Sandy Peaker Plant, LLC, California Electric Marketing, LLC, Crete Energy Venture, LLC, CSOLAR IV South, LLC, CSOLAR IV West, LLC, High Desert Power Project, LLC, Kiowa Power Partners, LLC, Lincoln Generating Facility, LLC, New Covert Generating Company, LLC, New Mexico Electric Marketing, LLC, Rolling Hills Generating, L.L.C., Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Frontier Partners, Ltd., Tenaska Gateway Partners, Ltd., Tenaska Georgia Partners, L.P., Tenaska Power Management, LLC, Tenaska Power Services Co., Tenaska Virginia Partners, L.P., Texas Electric Marketing, LLC, TPF Generation Holdings, LLC, and Wolf Hills Energy, LLC.
Description: Quarterly Land Acquisition Report of the Tenaska MBR Sellers.
Filed Date: 10/28/14.
Accession Number: 20141028–5171.
Comments Due: 5 p.m. ET 11/18/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26256 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3643–000.
Applicants: PacifiCorp.
Description: eTariff filing per 35.19a(b): Refund Report (Surcharge: Prelim Challenges to 2013 Rate Update) to be effective N/A.
Filed Date: 10/29/14.
Accession Number: 20141029–5088.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER14–2403–001.
Applicants: PacifiCorp.
Description: Compliance filing per 35: OATT Revisions to Part V Small Gen IC Agmts & Procedures (Order 792) Revisions to be effective 7/11/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5087.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER14–2592–001.
Applicants: Alcoa Power Generating Inc.
Description: Compliance filing per 35: Additional Changes to Pending Order No. 792 Compliance Filing to be effective 8/5/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5051.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–213–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3674; Queue No. V4–023 to be effective 11/29/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5069.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–214–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Original Service Agreement No. 3990; Queue W1–130 to be effective 10/1/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5072.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–215–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3675; Queue No. V4–023 to be effective 11/29/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5073.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–216–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(1): 2015 RSBAA Update Filing to be effective 1/1/2015.
Filed Date: 10/29/14.
Accession Number: 20141029–5076.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–217–000.
Applicants: Florida Power & Light Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): FPL and City of Winter Park, Florida NITSA and NOA Service Agreement No. 328 to be effective 1/1/2015.
Filed Date: 10/29/14.
Accession Number: 20141029–5084.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–218–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3065; Queue No. W3–146 to be effective 4/2/2012.
Filed Date: 10/29/14.
Accession Number: 20141029–5104.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–219–000.
Applicants: California Power Exchange Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Rate Filing for Rate Period 26 to be effective 1/1/2015.
Filed Date: 10/29/14.
Accession Number: 20141029–5116.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–220–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of Service Agreement No. 3277; Queue No. W3–146 to be effective 12/13/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5117.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–221–000.
Applicants: Puget Sound Energy, Inc.
Description: Initial rate filing per 35.12 West Coast Products LLC SA No. 711, 712 & 713 to be effective 10/1/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5121.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–222–000.
Applicants: Erie Wind, LLC.
Description: Baseline eTariff Filing per 35.1: Filing of Tenant in Common Agreement and Shared Facilities Agreement to be effective 12/29/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5122.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–223–000.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Withdrawal per 35.15: Notice of Termination of the Comprehensive Agreement between PG&E and CDWR to be effective 12/31/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5123.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–224–000.
Applicants: Niagara Wind Power, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Filing of Tenant in Common Agreement and Shared Facilities Agreement to be effective 12/29/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5124.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–225–000.
Applicants: Niagara Wind Power, LLC.
Description: Initial rate filing per 35.12 Filing of Rate Schedule under FPA Section 205 to be effective 12/29/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5129.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–226–000.
Applicants: Erie Wind, LLC.
Description: Initial rate filing per 35.12 Filing of Rate Schedule under FPA Section 205 to be effective 12/29/2014.
Filed Date: 10/29/14.
Accession Number: 20141029–5140.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–227–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Load and Generator Interconnection Agreements between PG&E and CDWR to be effective 1/1/2015.
Filed Date: 10/29/14.
Accession Number: 20141029–5145.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–227–001.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Amendment per 35.17(b): First Amendment to the CDWR Load and Generator Interconnection Agreement Filing to be effective 1/1/2015.
Filed Date: 10/29/14.
Accession Number: 20141029–5150.
Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–228–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Substitute Original 2880

Rattlesnake Creek Wind Project GIA to be effective 4/9/2014.

Filed Date: 10/29/14.

Accession Number: 20141029–5146.

Comments Due: 5 p.m. ET 11/19/14.

Docket Numbers: ER15–229–000.

Applicants: The Empire District Electric Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revised GFR Template to be effective 11/1/2014.

Filed Date: 10/29/14.

Accession Number: 20141029–5151.

Comments Due: 5 p.m. ET 11/19/14.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC15–1–000.

Applicants: Diageo USVI Inc.

Description: Self-Certification of Diageo USVI Inc. as foreign utility company.

Filed Date: 10/29/14.

Accession Number: 20141029–5065.

Comments Due: 5 p.m. ET 11/19/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA14–3–000.

Applicants: Blue Canyon Windpower LLC, Blue Canyon Windpower II LLC, Blue Canyon Windpower V LLC, Blue Canyon Windpower VI LLC, Cloud County Wind Farm, LLC, High Prairie Wind Farm II, LLC, Lost Lakes Wind Farm LLC, Pioneer Prairie Wind Farm I LLC, Rail Splitter Wind Farm, LLC, Sustaining Power Solutions LLC.

Description: Quarterly Land Acquisition Report of Windpower LLC, et. al.

Filed Date: 10/29/14.

Accession Number: 20141029–5083.

Comments Due: 5 p.m. ET 11/19/14.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR14–7–000.

Applicants: North American Electric Reliability Corporation.

Description: Errata to September 15, 2014 Petition of the North American Electric Reliability Corporation for Approval of Amendments to Regional Reliability Standards Development Procedure of the Northeast Power Coordinating Council, Inc.

Filed Date: 10/28/14.

Accession Number: 20141028–5181.

Comments Due: 5 p.m. ET 11/18/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26262 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–13–000]

Bonneville Power Administration v. PacifiCorp; Notice of Complaint

Take notice that on October 30, 2014, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Bonneville Power Administration (Complainant), filed a formal complaint against PacifiCorp (Respondent), alleging that the Respondent is engaging in unjust, unreasonable, and unduly discriminatory and/or preferential behavior in violation of Respondent's Open Access Transmission Tariff (OATT) with regard to Complainant's right to roll over the transmission component of grandfathered agreements providing for bundled power and transmission in Southeast Idaho to equivalent transmission service under the Respondent's OATT.

Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 19, 2014.

Dated: October 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26257 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 344–000]

Southern California Edison Company; Notice of Designation of Certain Commission Personnel as Non-Decisional

Commission staff members Katherine Liberty (Office of the General Counsel 202–502–6491; *katherine.liberty@ferc.gov*) and Elizabeth Molloy (Office of the General Counsel; 202–502–8771; *elizabeth.molloy@ferc.gov*) are assigned to help resolve issues related to the San Gorgonio Project No. 344.

As ''non-decisional'' staff, Ms. Liberty and Ms. Molloy will not participate in an advisory capacity in any matters related to the San Gorgonio Project No. 344.

Dated: October 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26261 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ15–2–000]

City of Vernon, California; Notice of Filing

Take notice that on October 24, 2014, City of Vernon, California submitted its tariff filing per 35.28(e): Filing 2015 Transmission Revenue Balancing Account Adjustment and Transmission Revenue Requirement to be effective 1/1/2015.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 14, 2014.

Dated: October 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26260 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–230–000]

GP Renewables & Trading, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of GP Renewables & Trading, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is November 19, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26259 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–190–000]

Duke Energy Renewable Services, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Duke Energy Renewable Services, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 19, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the

eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26265 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL15–12–000; QF98–54–001]

Alaska Power & Telephone Company; City of Saxman, Alaska; Notice of Petition for Enforcement

Take notice that on October 30, 2014, pursuant to section 210(h) of the Public Utility Regulatory Policies Act of 1978 (PURPA),16 U.S.C. 824a–3(h), section 292.302(c), and Rule 207(a) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 292.302(c) and 18 CFR 385.207, the Alaska Power & Telephone Company filed a Petition for Enforcement, requesting the Commission to issue an order instructing Southeast Alaska Power Agency (SEPA) to produce avoided cost data requested pursuant to section 292.302(c)(2), or in the alternative, exercise its authority and initiate enforcement action against SEPA pursuant to section 210(h)(2)(a) for failure to implement regulations for making avoided cost data available.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on November 20, 2014.

Dated: October 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26263 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Revocation of Market-Based Rate Tariff

	Docket Nos.
Electric Quarterly Reports	ER02–2001–018
Bell Independent Power	ER11–4577–000
BlueChip Energy LLC	ER11–3467–000
Burgess Capital LLC	ER11–4584–001
Caerus Energy, LLC	ER13–167–002
D & L Harris and Associates	ER12–2522–000
Dynamic PL, LLC	ER11–4530–000
EconoPower, LLC	ER13–1132–000
Energy Investments, LLC	ER11–4468–000
FFC Energy, LLC	ER11–4120–000
Fulcrum Power Marketing LLC	ER10–2761–000
Glacial Energy Holdings	ER11–3614–005
Intelligen Resources, L.P	ER12–2244–000
ISO Trader, LLC	ER10–2650–000
Moguai Energy LLC	ER11–4600–001
NDR Energy Group, LLC	ER13–454–002
People's Power & Gas, LLC	ER11–3753–001
Porter-Walker LLC	ER13–327–001
QC Power Strategies Fund LLC	ER13–354–001
RG Steel Sparrows Point LLC	ER11–3547–002
RMH Energy, LP	ER10–2544–000
Smart Papers Holdings LLC	ER12–42–000
Thompson River Power, LLC	ER10–2988–002
Torofino Physical Trading LLC	ER11–3432–001

	Docket Nos.
Visage Energy Corp.	ER12–2573–000
Vision Power Services, LLC	ER11–4692–000
Vlast LLC	ER12–1720–000

On October 9, 2014, the Commission issued an order announcing its intent to revoke the market-based rate authority of the public utilities listed in the caption of that order, which had failed to file their required Electric Quarterly Reports.[1] The Commission directed those public utilities to file the required Electric Quarterly Reports within 15 days of the date of issuance of the order or face revocation of their authority to sell power at market-based rates and termination of their electric market-based rate tariffs.[2]

The time period for compliance with the October 9 Order has elapsed. The above-captioned companies failed to file their delinquent Electric Quarterly Reports. The Commission hereby revokes the market-based rate authority and terminates the electric market-based rate tariffs of the companies who are named in the caption of this order.

Dated: October 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–26258 Filed 11–4–14; 8:45 am]

BILLING CODE 6717–01–P

[1] *Electric Quarterly Reports*, 149 FERC ¶ 61,023 (2014) (October 9 Order).

[2] *Id.* at Ordering Paragraph A.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2014–0694, FRL–9918–93–OSWER]

Agency Information Collection Activities; Proposed Collection; Comment Request; Requirements and Exemptions for Specific RCRA Wastes

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Requirements and Exemptions for Specific RCRA Wastes (EPA ICR No. 1597.11, OMB Control No. 2050–0145) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through February 28, 2015. 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.

DATES: Comments must be submitted on or before January 5, 2015.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–RCRA–2014–0694, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Peggy Vyas, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–5477; fax number: 703–308–8433; email address: *vyas.peggy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: In 1995, EPA promulgated regulations at 40 CFR Part 273 that govern the collection and management of widely-generated hazardous wastes known as ''Universal Wastes''. Universal Wastes are generated in a variety of non-industrial settings, and are present in non-hazardous waste management systems. Examples of Universal Wastes include certain batteries, pesticides, mercury-containing lamps and thermostats. The Part 273 regulations are designed to ensure facilities collect these wastes and properly manage them in an appropriate hazardous waste management system. EPA distinguishes two types of handlers of Universal Wastes: Small quantity handlers of Universal Waste (SQHUW) and large quantity handlers of Universal Waste (LQHUW). SQHUWs do not accumulate more than 5,000 kg of any one category of Universal Waste at one time, while LQHUWs may accumulate quantities at or above this threshold. More stringent requirements are imposed on LQHUWs because of greater potential environmental risks. EPA needs to collect notifications of Universal Waste management from LQHUWs to obtain general information on these handlers and to facilitate enforcement of the Part 273 regulations. EPA promulgated labeling and marking requirements and accumulation time limits to ensure that Universal Waste is being accumulated responsibly. EPA needs to collect information on illegal Universal Waste shipments to enforce compliance with applicable regulations.

Finally, EPA requires tracking of Universal Waste shipments to help ensure that Universal Waste is being properly treated, recycled, or disposed.

In 2001, EPA promulgated regulations in 40 CFR Part 266 that provide increased flexibility to facilities managing wastes commonly known as ''Mixed Waste.'' Mixed Wastes are low-level mixed waste (LLMW) and naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. These wastes are also regulated by the Atomic Energy Act. As long as specified eligibility criteria and conditions are met, LLMW and NARM are exempt from the definition of hazardous waste as defined in Part 261. Although these wastes are exempt from RCRA manifest, transportation, and disposal requirements, facilities must still comply with the manifest, transportation, and disposal requirements under the NRC (or NRC-Agreement State) regulations. Section 266.345(a) requires that generators or treaters notify EPA or the Authorized State that they are claiming the Transportation and Disposal Conditional Exemption prior to the initial shipment of a waste to a LLRW disposal facility. This exemption notice provides a tool for RCRA program regulatory agencies to become aware of the generator's exemption claims. The information contained in the notification package provides the RCRA program regulatory agencies with a general understanding of the claimant. This information also allows the agencies to document the generator's exemption status and to plan inspections and review exemption-related records.

And finally, in 1992, EPA finalized management standards for used oils destined for recycling. The Agency codified the used oil management standards at 40 CFR Part 279. The regulations at 40 CFR Part 279 establish, among other things, streamlined procedures for notification, testing, labeling, and recordkeeping. They also establish a flexible self-implementing approach for tracking off-site shipments that allow used oil handlers to use standard business practices (e.g., invoices, bill of lading). In addition, part 279 sets standards for the prevention and cleanup of releases to the environment during storage and transit. EPA believes these requirements will minimize potential mismanagement of used oils, while not discouraging recycling. Used oil transporters must comply with all applicable packaging, labeling, and placarding requirements of 49 CFR parts 173, 178, and 179. In addition, used oil transporters must report discharges of used oil according to existing 49 *CFR* part 171 and 33 *CFR* part 153 requirements.

Form numbers: None.

Respondents/affected entities: Entities potentially affected by this action are Private Sector and State, Local, or Tribal Governments.

Respondent's obligation to respond: mandatory (40 CFR Part 273), required to obtain or retain a benefit (40 CFR Parts 266 and 279).

Estimated number of respondents: 123,114.

Frequency of response: Occasionally.

Total estimated burden: 65,165 hours. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $34,535,019 which includes $10,012,855 annualized capital and O&M costs and $24,522,164 annualized labor costs.

Changes in estimates: The burden hours are likely to stay substantially the same.

Dated: October 29, 2014.

Rosemarie Kelley,

Acting Deputy Director, Office of Resource Conservation and Recovery.

[FR Doc. 2014–26329 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0091; FRL–9918–72–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Engine Test Cells/Stands (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Engine Test Cells/Stands (Renewal) (EPA ICR No. 2066.06, OMB Control No. 2060–0483), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This is a proposed extension of the ICR, which is currently approved through January 31, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before December 5, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0091, to (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Respondents are owners or operators of engine test cells/stands located at major source facilities that are being used for testing internal combustion engines. An engine test cell/stand is any apparatus used for testing uninstalled stationary or uninstalled mobile (motive) engines. A plant site that is a major source of hazardous air pollutant (HAP) emissions emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAPs at a rate of 25 tons (22.68 megagrams) or more per year. New or reconstructed sources must be in

compliance with the requirements of the engine test cells/stands NESHAP upon startup.

Form numbers: None.

Respondents/affected entities: Owners or operators of engine test cells/stands located at major source facilities that are being used for testing internal combustion engines.

Respondent's obligation to respond: Mandatory (40 CFR part 63, Subpart PPPPP).

Estimated number of respondents: 18 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 1,719 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $173,607 (per year), which includes $5,400 in annualized capital and/or operation & maintenance costs.

Changes in the estimates: There is a decrease of 1,324 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to the correction of two errors. First, in the previous ICR, it was assumed that performance evaluation reports would be submitted every five years. However, performance evaluations are only conducted initially, when new facilities first needed to demonstrate compliance with the standard. Since there will be no new or reconstructed sources over the next three years, performance evaluations are not required. Second, in the previous ICR, it was assumed that one out of the eighteen sources would write an annual deviation report. However, deviations are reported as part of the semiannual compliance status report; separate reports are not required. As a result of these two corrections, there is an overall decrease in the estimated burden cost as currently identified in the OMB Inventory of Approved Burdens.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–26240 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0614; FRL–9918–80]

FIFRA SAP; Notice of Supplemental Information for Previously Announced Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is supplementing the public meeting notice provided in the **Federal Register** on September 16, 2014, which announced a 4-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) scheduled for December 2–5, 2014, to consider and review scientific uncertainties associated with Integrated Endocrine Activity and Exposure-based Prioritization and Screening. Specifically, EPA is announcing the change of the assigned Designated Federal Official (DFO) for this meeting from Alva Daniels to Fred Jenkins, and that the meeting materials that have been provided to the FIFRA SAP members and are now available in the docket for this meeting.

DATES: The meeting will be held on December 2–5, 2014, from approximately 9 a.m. to 5 p.m.

Comments. As indicated previously, the Agency encourages that written comments be submitted by November 18, 2014, and requests for oral comments be submitted by November 25, 2014. However, written comments and requests to make oral comments may be submitted until the date of the meeting, but anyone submitting written comments after November 18, 2014, should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**. For additional instructions, see Unit I.C. of the **SUPPLEMENTARY INFORMATION** in the public meeting notice that published in the **Federal Register** of September 16, 2014.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Fred Jenkins, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–3327; email address: *jenkins.fred@epa.gov.*

SUPPLEMENTARY INFORMATION: The detailed information about this meeting and instructions for commenting are provided in the original public meeting notice that published in the **Federal Register** of September 16, 2014 (79 FR 55475) (FRL 9915–55). As indicated in the original public meeting announcement of September 16, 2014, you may access available meeting materials for this FIFRA SAP meeting at *http://www.regulations.gov* and the FIFRA SAP Web site at *http://www.epa.gov/scipoly/sap.*

Any requests to present oral comments, requests for special accommodations, or inquiries about this meeting should now be directed to Fred Jenkins, the DFO listed under **FOR FURTHER INFORMATION CONTACT** in this document.

Authority: 7 U.S.C. 136 *et seq.;* 21 U.S.C. 301 *et seq.*

Dated: October 29, 2014.

David Dix,

Director, Office of Science Coordination and Policy.

[FR Doc. 2014–26224 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0806; FRL–9918–77]

Pollinator Health Task Force; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As part of the U.S. Government's efforts to promote the health of honey bees and other pollinators, the Pollinator Health Task Force (the Task Force) is soliciting stakeholder input on best management practices including pesticide risk mitigation, public-private partnerships, research, education opportunities, pollinator habitat improvements, and other actions that the Task Force should consider in developing a Federal strategy to reverse pollinator losses and help restore populations to healthy levels. EPA and the United States Department of Agriculture (USDA) will host two listening sessions in order to solicit stakeholder input to the Federal strategy.

DATES: *Meetings:* The meetings will be held on November 12, 2014, from 1 p.m. to 3 p.m., eastern standard time, and November 17, 2014, from 1 p.m. to 3 p.m., eastern standard time.

Comments: Written comments must be received on or before close of business November 24, 2014.

Request for accommodations: To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the

meeting, to give EPA and USDA as much time as possible to process your request.

ADDRESSES: *Meetings:* The November 12, 2014 meeting will be held at EPA, 1 Potomac Yard South, 2777 Crystal Dr., Arlington, VA, in the lobby-level Conference Center. Individuals attending the November 12, 2014 meeting must bring appropriate identification with them to the meeting. Identification requirements are available at: *http://www.epa.gov/oppfead1/cb/csb_page/updates/2014/new-id.html.*

The November 17, 2014 meeting will be held at USDA, 4700 River Rd., Riverdale, MD 20737.

Webinar: Stakeholders will be able to participate in the listening sessions via webinar. Instructions for webinar participation will be made available at *http://www2.epa.gov/pollinator-protection* prior to the first listening session.

Comments: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0806, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; email address: *nevola.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of particular interest to persons who work in agricultural settings or persons who are concerned about pollinator health. You may be potentially affected by this action if you belong to any of the following entities: Agricultural workers and farmers; pesticide industry and trade associations; beekeepers; environmental, consumer, and farm worker groups; State, local, and tribal governments; academia; public health organizations; conservation organizations; and the public.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

The Task Force was created by President Barack Obama to develop a Federal strategy to promote the health of honey bees and other pollinators. Co-chaired by the USDA and the EPA, the Task Force includes membership from the Department of State, the Department of Defense, the Department of the Interior, the Department of Housing and Urban Development, the Department of Transportation, the Department of Energy, the Department of Education, the Council on Environmental Quality, the Domestic Policy Council, the General Services Administration, the National Science Foundation, the Federal Emergency Management Agency, the Delta Regional Authority, the Smithsonian, the National Aeronautics and Space Administration, the National Security Council staff, the Office of Management and Budget, the Office of Science and Technology Policy. The National Pollinator Health Strategy (the strategy) will include explicit goals, milestones, and metrics to measure progress. The strategy will include the following components:

1. A pollinator research action plan.
2. A public education plan.
3. Public-private partnerships.

Another critical piece of the strategy will focus on increasing and improving pollinator habitat. For additional information regarding the strategy, please see: *http://www.whitehouse.gov/the-press-office/2014/06/20/presidential-memorandum-creating-federal-strategy-promote-health-honey-b.*

The Task Force is particularly interested in hearing about opportunities for public-private partnerships to augment actions on research, education, and habitat expansion and improvement. To this end, and with emphasis on actions of substantial potential impact or amenability to scaling, the Task Force welcomes information on existing partnerships and opportunities for new partnerships, accompanied, where possible, with implementation details and recommendations.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 28, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–26096 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9918–89–OECA]

National Environmental Justice Advisory Council

AGENCY: Environmental Protection Agency.

ACTION: Request for nominations to the National Environmental Justice Advisory Council (NEJAC).

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations from a diverse range of qualified candidates to be considered for appointment to its National Environmental Justice Advisory Council (NEJAC). The NEJAC was chartered to provide advice regarding broad, cross-cutting issues related to environmental justice. This notice solicits nominations to fill approximately eight (8) new vacancies for terms through September 2017. To maintain the representation outlined by the charter, nominees will be selected to represent: Academia, grassroots community-based organizations, non-governmental/environmental organizations; local government agencies; business and industry and tribal governments and indigenous organizations. Vacancies are anticipated to be filled by May 2015.

Sources in addition to this **Federal Register** Notice also may be utilized in the solicitation of nominees.

DATES: Nominations should be submitted in time to arrive no later than November 22, 2014.

ADDRESSES: Submit nominations electronically with the subject line ''NEJAC Membership 2015'' to *muriel.jasmin@epa.gov.* You also may submit nominations by mail to: Jasmin Muriel, NEJAC Program Manager, Office of Environmental Justice, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW. (MC 2201A), Washington, DC 20460. Non-electronic submissions must follow the same format and contain the same information. The Office of Environmental Justice will acknowledge receipt of nominations.

FOR FURTHER INFORMATION CONTACT: Sherri P. White, Designated Federal Officer for the NEJAC, U.S. EPA; telephone (202) 564–2462; fax: (202) 564–1624.

SUPPLEMENTARY INFORMATION: The NEJAC is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), Public Law 92–463. EPA established the NEJAC in 1993 to provide independent consensus advice to the EPA Administrator about a broad range of environmental issues related to environmental justice. The NEJAC conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations.

The Council consists of 27 members (including a Chairperson) appointed by EPA's Administrator. Members serve as non-federal stakeholders representing: Four (4) from academia, three (3) from business and industry; six (6) from community based organizations; six (6) from non-governmental/environmental organizations; four (4) from state and local governments; and four (4) from tribal governments and indigenous organizations, of which one member serves as a liaison to the National Tribal Caucus. Members are appointed for three (3)-year terms with the possibility of reappointment to a second term.

The NEJAC usually meets face-to-face twice a year, generally in the Spring and the Fall. Additionally, members may be asked to participate in teleconference meetings or serve on Work Groups to develop recommendations, advice letters, and reports to address specific policy issues. The average workload for members is approximately 5 to 8 hours per month. EPA provides reimbursement for travel and other incidental expenses associated with official government business.

Nominations: Any interested person and/or organization may nominate qualified individuals for membership. The EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, the agency encourages nominations of women and men of all racial and ethnic groups. All nominations will be fully considered, but applicants need to be aware of the specific representation sought as outlined in the Summary above. In addition, EPA is seeking nominees with knowledge in community sustainability, public health and health disparities, climate change adaptation, land use and equitable development, environmental sociology and social science, and environmental financing.

Other criteria used to evaluate nominees will include:

- The background and experience that would help members contribute to the diversity of perspectives on the committee (e.g., geographic, economic, social, cultural, educational background, professional affiliations, and other considerations;
- Demonstrated experience with environmental justice and community sustainability issues at the national, state, or local level;
- Excellent interpersonal and consensus-building skills;
- Ability to volunteer time to attend meetings 2–3 times a year, participate in teleconference meetings, develop policy recommendations to the Administrator, and prepare reports and advice letters;
- Willingness to commit time to the committee and demonstrated ability to work constructively and effectively on committees.

How to Submit Nominations: Any interested person or organization may nominate qualified persons to be considered for appointment to this advisory committee. Individuals are encouraged to self-nominate.

Nominations can be submitted in electronic format (preferred) following the template available at *http://epa.gov/environmentaljustice/nejac/index.html#Membership.* To be considered, all nominations should include:

- Current contact information for the nominee, including the nominee's name, organization (and position within that organization), current business address, email address, and daytime telephone number.
- Brief Statement describing the nominees interest in serving on the NEJAC.
- Résumé and a short biography (no more than 2 paragraphs) describing the professional and educational qualifications of the nominee, including a list of relevant activities, and any current or previous service on advisory committees.
- Letter[s] of recommendation from a third party supporting the nomination. Letter[s] should describe how the nominee's experience and knowledge will bring value to the work of the NEJAC.

Other sources, in addition to this **Federal Register** notice, may also be utilized in the solicitation of nominees. To help the EPA in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity.

Dated: October 29, 2014.

Matthew Tejada,

Director, Office of Environmental Justice, U.S. EPA.

[FR Doc. 2014–26328 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0751; FRL–9918–46]

Methomyl; Notice of Receipt of Requests To Voluntarily Amend Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by the registrants to voluntarily to amend their methomyl product registrations to delete one or more uses. The requests would delete methomyl use in or on barley, oats, and rye. The requests would not terminate the last methomyl products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the use is deleted only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before December 5, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0751, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Tom Myers, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8589; email address: *myers.tom@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background on the Receipt of Requests To Amend Registrations to Delete Uses

This notice announces receipt by EPA of requests from registrants to delete certain uses of methomyl product registrations. Methomyl is a broad-spectrum carbamate insecticide registered for use on a wide range of field crops, vegetables, fruits, and turf. In letters to EPA, the registrants have requested EPA to amend their methomyl product labels to delete certain uses of their pesticide product registrations identified in Table 1 of Unit III. Specifically, the registrants have submitted letters to EPA to voluntarily amend their methomyl product registrations to delete the use of methomyl in or on barley, oats, and rye. This action on the registrant's requests will terminate the last methomyl pesticide products registered in the United States for these uses.

III. What action is the Agency taking?

This notice announces receipt by EPA of requests from registrants to delete certain uses of methomyl product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order amending the affected registrations.

TABLE 1—METHOMYL PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Product name	Company	Uses to be deleted
352–342	Dupont Lannate SP Insecticide	Dupont	Barley, Oats, Rye.
352–361	Dupont Methomyl Composition	Dupont	Barley, Oats, Rye.
352–366	Dupont Methomyl Technical	Dupont	Barley, Oats, Rye.
352–384	Dupont Lannate LV Insecticide	Dupont	Barley, Oats, Rye.
400–597	Annihilate LV	MacDermid Agricultural Solutions	Barley, Oats, Rye.
400–598	Annihilate SP	MacDermid Agricultural Solutions	Barley, Oats, Rye.
70552–2	Methomyl Technical	Sinon Corporation	Barley, Oats, Rye.
81598–9	Rotam Methomyl Technical	Rotam Limited	Barley, Oats, Rye.
82557–2	Methomyl 29% SL Insecticide	Sinon USA Inc.	Barley, Oats, Rye.
82557–3	Methomyl 90% SP	Sinon USA Inc.	Barley, Oats, Rye.
83100–27	Rotam Methomyl 29 LV Insecticide	Rotam Agrochemical Company, Ltd	Barley, Oats, Rye.
83100–28	Rotam Methomyl 90 SP Insecticide	Rotam Agrochemical Company, Ltd	Barley, Oats, Rye.

Table 2 of this unit includes the names and addresses of record for the registrants of the products listed in sequence by EPA company number. This corresponds to EPA registration numbers in Table 1 of this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY AMENDMENTS

EPA Company No.	Company name and address
352	E. I. Du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898–0001.
400	MacDermid Agricultural Solutions, Inc., c/o Chemtura Corporation, 199 Benson Road, Middlebury, CT 06749.
70552	Sinon Corporation, c/o Biologic, Inc., 115 Obtuse Hill Road, Brookfield, CT 06804.
81598	Rotam Limited, c/o Wagner Regulatory Associates, Inc., P.O. Box 640, 7217 Lancaster Pike, Suite A, Hockessin, DE 19707.
82557	Sinon USA Inc., c/o Biologic, Inc., 115 Obtuse Hill Road, Brookfield, CT 06804.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY AMENDMENTS—Continued

EPA Company No.	Company name and address
83100	Rotam Agrochemical Company, Ltd., c/o Wagner Regulatory Associates, Inc., P.O. Box 640, 7217 Lancaster Pike, Suite A, Hockessin, DE 19707.

IV. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or
2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The methomyl registrants have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation or use deletion should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for amendments to delete uses are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for amendments to delete uses, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit III.

Once EPA has approved product labels reflecting the requested amendments to delete uses, registrants will be permitted to sell or distribute products under the previously approved labeling for a period of 18 months after the date of **Federal Register** publication of the cancellation order, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 1 of Unit III., except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of products whose labels include the deleted uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the deleted uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 24, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–26176 Filed 11–4–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Community Banking; Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Community Banking, which will be held in Arlington, Virginia. The Advisory Committee will provide advice and recommendations on a broad range of policy issues that have particular impact on small community banks throughout the United States and the local communities they serve, with a focus on rural areas.

DATES: Thursday, November 20, 2014, from 9:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held in Auditorium C on the Third Floor of the FDIC William Seidman Center, 3501 North Fairfax Drive (Building C), Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include a discussion of current issues affecting community banking. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting. This Community Banking Advisory Committee meeting will be Webcast live via the Internet at *https://fdic.primetime.mediaplatform.com/#/channel/1384299242770/Advisory+Committee+on+Community+Banking+* . Questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet connection is recommended. The Community Banking meeting videos are made available on-demand approximately two weeks after the event.

Dated: October 31, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Committee Management Officer.

[FR Doc. 2014–26236 Filed 11–4–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012072–002.

Title: NYK/Yang Ming Americas Express North-South Service Slot Charter Agreement.

Parties: Nippon Yusen Kaisha; and Yang Ming (America) Corp.

Filing Party: Eric C. Jeffrey, Esq.; Nixon Peabody LLP; 401 9th Street NW., Suite 900; Washington, DC 20004.

Synopsis: The amendment changes the name of the agreement, revises the geographic scope to broaden the port ranges in the U.S. and South America, clarifies the amount of space provided to Yang Ming, updates the termination provisions, and makes miscellaneous clarifying changes.

Dated: October 31, 2014.

By Order of the Federal Maritime Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–26255 Filed 11–4–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 1, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Busey Corporation,* Illinois to merge with Herget Financial Corp, and thereby indirectly acquire Herget Bank, National Association, both in Pekin, Illinois.

Board of Governors of the Federal Reserve System October 31, 2014.

Margaret Shanks,

Deputy Secretary of the Board.

[FR Doc. 2014–26267 Filed 11–4–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 29, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Grand Bancorp, Inc.,* Grove, Oklahoma; to acquire 100 percent of the voting shares of Decatur State Bank, Decatur, Arkansas.

Board of Governors of the Federal Reserve System October 30, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–26217 Filed 11–4–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2014–25756) published on page 64595 of the issue for Thursday, October 30, 2014.

Under the Federal Reserve Bank of New York heading, the entry for People's United Financial, Inc., Bridgeport, Connecticut, is revised to read as follows:

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. *People's United Financial, Inc.,* Bridgeport, Connecticut; to become a bank holding company upon the conversion of People's United Bank, Bridgeport, Connecticut, to a national bank.

In connection with this application, Applicant also has applied to engage through Shem Creek Capital Fund I, LLC, Boston, Massachusetts, and Northeast Retirement Services, Inc., Woburn, Massachusetts, in employee benefit administrative services, trust company functions, investment advisory activities and extending credit and servicing loans, pursuant to sections 225.28(b)(1), 225.28(b)(5), 225.28(b)(6)(i), 225.28(b)(7)(i), and 225.28(b)(9)(ii).

Comments on this application must be received by November 24, 2014.

In addition, this notice also corrects a notice (FR Doc. 2014–25840) published on pages 64595 and 64596 of the issue for Thursday, October 30, 2014.

Under the Federal Reserve Bank of Atlanta heading, the entry for IBERIABANK Corporation, Lafayette, Louisiana, is revised to read as follows:

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *IBERIABANK Corporation,* Lafayette, Louisiana; to merge with Florida Bank Group, Inc., and thereby indirectly acquire Florida Bank, both in Tampa, Florida.

Comments on this application must be received by November 24, 2014.

Board of Governors of the Federal Reserve System, October 30, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–26216 Filed 11–4–14; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–WW1–2014–04; Docket No. 2014–0003; Sequence No. 4]

World War One Centennial Commission; Notification of Upcoming Public Advisory Meeting

AGENCY: World War One Centennial Commission, GSA.

ACTION: Meeting notice.

SUMMARY: Notice of this meeting is being provided according to the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2). This notice provides the schedule and agenda for the December 10, 2014 meeting of the World War One Centennial Commission (the Commission). The meeting is open to the public.

DATES: *Effective:* December 10, 2014.

Meeting date: The meeting will be held on Wednesday, December 10, 2014 starting at 12:30 p.m. Central Standard Time (CST), and ending no later than 2:00 p.m. Central Standard Time (CST). The meeting will be held at the Pritzker Military Museum and Library at 104 South Michigan Avenue, Chicago, IL 60603. This location is handicapped accessible. The meeting will be open to the public and will also be available telephonically. Persons wishing to listen to the proceedings may dial 712–432–1001 and enter access code 474845614. Note this is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Daniel S. Dayton, Designated Federal Officer, c/o The Foundation for the Commemoration of the World Wars, 701 Pennsylvania Avenue NW., 123, Washington, DC 20004–2608 202–380–0725 (note: this is not a toll-free number).

Written Comments may be submitted to the Commission and will be made part of the permanent record of the Commission. Comments must be received by 5:00 p.m. Eastern Standard Time (EST), December 4, 2014 and may be provided by email to *daniel.dayton@worldwar1centennial.org.*

SUPPLEMENTARY INFORMATION:

Background

The World War One Centennial Commission was established by Public Law 112–272, as a commission to ensure a suitable observance of the centennial of World War I, to provide for the designation of memorials to the service of members of the United States Armed Forces in World War I, and for other purposes. Under this authority, the Committee will plan, develop, and execute programs, projects, and activities to commemorate the centennial of World War I, encourage private organizations and State and local governments to organize and participate in activities commemorating the centennial of World War I, facilitate and coordinate activities throughout the United States relating to the centennial of World War I, serve as a clearinghouse for the collection and dissemination of information about events and plans for the centennial of World War I, and develop recommendations for Congress and the President for commemorating the centennial of World War I. The Commission does not have an appropriation and operated solely on donated funds.

Agenda: Wednesday, December 10, 2014.

Introductions and plans for today's meeting—Designated Federal Officer.
Committee Reports.
Old Business.
New Business.
Public Comments.
Closing comments.

Dated: October 31, 2014.

Daniel S. Dayton,

Designated Federal Official, World War I Centennial Commission.

[FR Doc. 2014–26298 Filed 11–4–14; 8:45 am]

BILLING CODE 6820–95–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice concerning the final effect of the HHS decision to designate a class of employees from the General Atomics facility in La Jolla, California, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7384q(b). 42 U.S.C. 7384*l*(14)(C).

On September 25, 2014, as provided for under the Secretary of HHS designated the following class of employees as an addition to the SEC:

All Atomic Weapons Employees who worked for General Atomics at its facility in La Jolla, California, during the period from January 1, 1960, through December 31, 1969, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation became effective on October 25, 2014. Therefore, beginning on October 25, 2014, members of this class of employees, defined as reported in this notice, became members of the SEC.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2014–26340 Filed 11–4–14; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[OMHA–1401–NC]

Medicare Program; Administrative Law Judge Hearing Program for Medicare Claim Appeals

AGENCY: Office of Medicare Hearings and Appeals (OMHA), HHS.

ACTION: Request for information.

SUMMARY: This request for information solicits suggestions for addressing the substantial growth in the number of requests for hearing being filed with the

Office of Medicare Hearings and Appeals, and backlog of pending cases.

DATES: The information solicited in this notice must be received at the address provided below, no later than 5:00 p.m., eastern standard time (e.s.t.) December 5, 2014.

ADDRESSES: In commenting, refer to ''OMHA–1401–NC'' at the top of your comments. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. We will not accept comments submitted after the comment period.

You may submit comments in one of two ways (to ensure that we do not receive duplicate copies, please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments to *www.regulations.gov.* For new users, you can find instructions on how to submit comments by selecting ''Are you new to this site?'' at *www.regulations.gov,* then selecting ''How do I submit a comment?'' For those familiar with *www.regulations.gov,* you can search ''OMHA–1401–NC'' and select ''Comment Now!''

If you are submitting comments electronically, we strongly encourage you to submit any comments or attachments in Microsoft Word format. If you must submit a comment in Portable Document Format (PDF), we strongly encourage you to convert the PDF to print-to-PDF format or to use some other commonly used searchable text format. Please do not submit the PDF in a scanned or read-only format. Using a print-to-PDF format allows us to electronically search and copy certain portions of your submissions.

2. *U.S. Mail or commercial delivery.* You may send written comments to the following address only: Office of Medicare Hearings and Appeals, Department of Health and Human Services, Attention: OMHA–1401–NC, 1700 N. Moore St., Suite 1800, Arlington, VA 22209.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

Viewing comments: Comments received from members of the public (including comments submitted by mail or commercial delivery) will be made available for public viewing in their entirety on the Federal eRulemaking portal at *www.regulations.gov.* Information on using *www.regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''

Privacy Note: Because comments will be made available for public viewing in their entirety on the Federal eRulemaking portal, commenters should exercise caution and only include in their comments information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Jason Green, by telephone at 1–703–235–0124, or by email at *jason.green@hhs.gov* (comments will not be accepted at this email address). If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877- 8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Medicare Hearings and Appeals (OMHA), a staff division within the Office of the Secretary of the U.S. Department of Health and Human Services (HHS), administers the nationwide Administrative Law Judge hearing program for Medicare claim, organization and coverage determination, and entitlement appeals under sections 1869, 1155, 1876(c)(5)(B), 1852(g)(5), and 1860D–4(h) of the Social Security Act. OMHA ensures that Medicare beneficiaries and the providers and suppliers that furnish items or services to Medicare beneficiaries, as well as Medicare Advantage Organizations (MAOs) and Medicaid State Agencies, have a fair and impartial forum to address disagreements with Medicare coverage and payment determinations made by Medicare contractors, MAOs, or Part D Plan Sponsors (PDPSs), and determinations related to Medicare eligibility and entitlement, and income-related premium surcharges made by the Social Security Administration (SSA).

The Medicare claim, and organization and coverage determination appeals process consists of four levels of administrative review within HHS, and a fifth level of review with the Federal courts after administrative remedies within HHS have been exhausted. The first two levels of review are administered by the Centers for Medicare & Medicaid Services (CMS) and conducted by Medicare contractors for claim appeals, by MAOs and an independent review entity for Part C organization determination appeals, or by PDPSs and an independent review entity for Part D coverage determination appeals. The third level of review is administered by OMHA and conducted by Administrative Law Judges. The fourth level of review is administered by the HHS Departmental Appeals Board (DAB) and conducted by the Medicare Appeals Council. In addition, OMHA and the DAB administer the second and third levels of appeal, respectively, for Medicare eligibility, entitlement and premium surcharge reconsiderations made by SSA; a fourth level of review with the Federal courts is available after administrative remedies within HHS have been exhausted.

The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Pub. L. 106–554), which added section 1869(d)(1)(A) of the Social Security Act, provides for an Administrative Law Judge to conduct and conclude a hearing and render a decision on such hearing within 90 days of the date a request for hearing has been timely filed. Section 1869(d)(3) of the Social Security Act states that, if an ALJ does not render a decision by the end of the specified timeframe, the appellant may request review by the Departmental Appeals Board. Likewise, if the Departmental Appeals Board does not render a decision by the end of the specified timeframe, the appellant may seek judicial review. OMHA was established in July 2005 pursuant to section 931 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173), which required the transfer of responsibility for the Administrative Law Judge hearing level of the Medicare claim and entitlement appeals process from SSA to HHS. OMHA was expected to improve service to appellants and reduce the average 368-day waiting time for a hearing decision that appellants experienced with SSA.

OMHA serves a broad sector of the public, including Medicare providers, suppliers, and MAOs, and Medicare beneficiaries, who are often elderly or disabled and among the nation's most vulnerable populations. OMHA currently administers its program in five field offices, including those located in Miami, Florida; Cleveland, Ohio; Irvine, California; Arlington, Virginia; and the recently established field office in Kansas City, Missouri. OMHA uses video-teleconferencing (VTC), telephone conferencing, and in-person formats to provide appellants with hearings.

At the time OMHA was established, it was envisioned that OMHA would receive the claim and entitlement appeals workload from the Medicare Part A and Part B programs, and organization determination appeals from the Medicare Advantage (Part C) program, as well as coverage determination appeals from the Medicare Prescription Drug (Part D) program and appeals of Income Related Monthly Adjustment Amount (IRMAA) premium surcharges assessed by SSA. With this mix of work at the expected

levels, OMHA was able to meet the 90-day adjudication time frame.

However, in recent years, OMHA has experienced a significant and sustained increase in appeals workload that has compromised its ability to meet the 90-day adjudication time frame. In addition to the expanding Medicare beneficiary population and utilization of services across that population, the increase in appeals workload has resulted from a number of changes in the Medicare claim review and appeals processes in recent years, including:

- Medicaid State Agency (MSA) appeals of Medicare coverage denials for beneficiaries dually enrolled in both Medicare and Medicaid. These appeals were previously addressed through a demonstration project that employed an alternative dispute resolution process to determine whether the Medicare or Medicaid program would pay for care furnished to the dually enrolled beneficiaries. The demonstration project ended in 2010, and the MSA appeals entered the standard administrative appeals process, increasing appeals workloads throughout the Medicare claim appeal process, including at OMHA.
- The fee-for-service Recovery Audit (RA) program (also known as the Recovery Audit Contractor program), which was made permanent by section 302 of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432). Appeals from the RA program began to enter the administrative appeals process at the CMS contractor levels in fiscal year 2011. In fiscal year 2012, OMHA began receiving hearing requests related to the RA program that exceeded projections.
- CMS has implemented a number of changes to enhance its monitoring of payment accuracy in the Medicare Part A and Part B programs, which have increased denial rates and likely contributed to increased appeals. For example, based on recommendations from the HHS Office of Inspector General (OIG), in 2009, CMS tightened its methodologies related to how it calculates the Medicare payment error rate, with a view towards improving provider claims documentation and compliance with Medicare's billing, coverage, and medical necessity requirements. In addition, Medicare Administrative Contractors (MACs) initiated a series of focused medical review initiatives, which increased the overall number of denied claims. CMS also initiated efforts to eliminate payment error and fraud based on Executive Order 13520 and the Improper Payments Elimination and Recovery Act of 2010 (Pub. L. 111–204), resulting in additional denied claims and the identification of overpayments.

With the increase in overall claim denials, the administrative appeals process has experienced an overall increase in appeal requests. At OMHA, the more than anticipated workload increase in appealed claims resulted in a backlog of appeals (that is, appeals that cannot be heard and decided within the adjudication time frame) starting in fiscal year 2012, with a 42% increase from fiscal year 2011 in the number of claims appealed to OMHA. In fiscal year 2013, the number of claims appealed to OMHA more than doubled from fiscal year 2012, with a 123% increase, further contributing to the backlog of cases and resulting in a substantial increase in the adjudication time frame. The increase in appealed claims from the RA program was particularly high in fiscal year 2013, with a 506% increase in appealed RA program claims compared to fiscal year 2012 appealed claims from the RA program, versus a 77% increase in appealed claims not related to the RA program during that same period of time.

In 2013, CMS issued an Administrator Ruling (published on March 18, 2013, 78 FR 16614) and finalized new rules (published on August 19, 2013, 78 FR 50495) designed to clarify criteria for new (fiscal year 2014) Medicare Part A inpatient hospital admissions, which comprised the disputed issues in a majority of RA program appeals, and to clarify policies at issue in appeals of inpatient claim denials under the existing rules. In addition, CMS expanded the scope of alternative Part B services that could be billed if a Part A inpatient admission was denied and, as part of the ruling, for a limited time allowed hospitals to submit Part B claims for those services beyond the one-year claim filing deadline. Separately, CMS also suspended most RA program audits of Part A inpatient hospital admissions under the new inpatient admission criteria (commonly referred to as the two-midnight rule), which was effective for inpatient claims with admission dates on and after October 1, 2013, in order to offer providers time to become educated on the two-midnight rule. The suspension of audits for new admissions was extended for claims with dates of admission through March 31, 2015, pursuant to section 111 of the Protecting Access to Medicare Act of 2014 (Pub. L. 113–93). CMS is also making improvements to the RA program that are designed to increase the accuracy of RA determinations and to reduce the burden on providers as well as the number of payment denials that providers and suppliers appeal.

OMHA also took measures to mitigate the effects of the workload increase at the Administrative Law Judge level. One of the immediate measures taken was to ensure that processing of the relatively small numbers of beneficiary-initiated appeals was prioritized. For the remaining cases, OMHA has deferred assignments of new requests for hearing until an adjudicator becomes available, which will allow appeals to be assigned more efficiently on a first in/first out basis as an Administrative Law Judge's case docket is able to accommodate additional workload.

On February 12, 2014, OMHA hosted a Medicare Appellant Forum (see OMHA's Notice of Meeting, published on January 3, 2014, 79 FR 393). The Medicare Appellant Forum was conducted to provide the appellant community with an update on the status of OMHA operations; relay information on a number of OMHA initiatives designed to mitigate the backlog in processing Medicare appeals at the Administrative Law Judge level of the administrative appeals process; and provide information on measures that appellants could take to make the administrative appeals process work more efficiently at the Administrative Law Judge level. In addition, CMS and the DAB participated in the forum and shared information on operations at their respective appeals levels. A second OMHA Medicare Appellant Forum was held on October 29, 2014 (see OMHA's Notice of Meeting, published on October 23, 2014, 79 FR 63398). As conveyed at the forums, HHS is committed to addressing the challenges facing the Medicare claim and entitlement appeals process, and has implemented initiatives and continues to explore additional measures to address the workload increase and reduce the backlog of appeals.

Since the February Medicare Appellant Forum, OMHA has implemented two pilot programs to provide appellants with meaningful options to address claims at the Administrative Law Judge level of appeal, in addition to the existing right to escalate a request for appeal when the adjudication time frame is not met. OMHA is providing appellants with an option to use statistical sampling during the Administrative Law Judge hearing process, which will enable appellants to obtain a decision on large numbers of appealed claims based on a sampling of those claims. OMHA is also providing appellants with an option for settlement conference facilitation, which will provide appellants with an independent

OMHA facilitator to discuss potential settlement of claims with authorized settlement officials. Additional information on these two pilots can be found on OMHA's Web site, *http://www.hhs.gov/omha.*

In addition to these initiatives, OMHA continues to pursue new case processing efficiencies and an electronic case adjudication processing environment (ECAPE) to bring further efficiencies to the appeals process.

II. Request for Information

OMHA is seeking input from the public on the current initiatives being undertaken at the Administrative Law Judge level, as well as suggestions for additional initiatives which could be undertaken at OMHA to address the Medicare claim and entitlement appeals workload and backlog at the Administrative Law Judge level. Input is sought on the following topics and questions:

- Are there suggestions related to the current initiatives for addressing the increased workload and/or backlog of appeals at the Administrative Law Judge level that comply with current statutory authorities and requirements?
- Are there other suggestions for addressing the increased workload and/or backlog of appeals at the Administrative Law Judge level that comply with current statutory authorities and requirements?
- Are there any current regulations that apply to the Administrative Law Judge level of the Medicare claim and entitlement appeals process that could be revised to streamline the adjudication process while ensuring that parties to the appeals, as defined at 42 CFR 405.902 and 405.906, are afforded opportunities to participate in the process and are kept apprised of appeals related to claims submitted by them or on their behalf?

(Catalog of Federal Domestic Assistance Program No. 93.770, Medicare—Prescription Drug Coverage; Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 30, 2014.

Nancy J. Griswold,

Chief Administrative Law Judge, Office of Medicare Hearings and Appeals.

[FR Doc. 2014–26214 Filed 11–4–14; 8:45 am]

BILLING CODE 4150–46–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.647]

Announcement of the Award of a Single-Source Program Expansion Supplement Grant to Child Trends, Inc., in Bethesda, MD

AGENCY: Office of Planning, Research and Evaluation, ACF, HHS.

ACTION: Announcement of the award of a single-source expansion supplement grant to Child Trends, Inc., in Bethesda, MD, to support activities that promote the economic and social well-being of individuals, families, and communities.

SUMMARY: The Administration for Children and Families (ACF), Office of Planning, Research and Evaluation (OPRE) announces the award of a single-source expansion supplement award in the amount of $120,000 to Child Trends, Inc., in Bethesda, MD, to support activities that will provide research-based information to improve understanding of how to promote the economic and social well-being of underserved and under-represented populations.

DATES: September 30, 2014 through September 29, 2015.

FOR FURTHER INFORMATION CONTACT: Ann Rivera, Social Science Research Analyst, Office of Planning, Research & Evaluation, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447; Telephone: (202) 401–5506; Email: *ann.rivera@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under this grant program, Child Trends, Inc., a non-profit, nonpartisan research center, has established the National Research Center on Hispanic Children and Families, which brings together an interdisciplinary team of academic and organizational partners to provide leadership in culturally competent research that can inform policies concerning low-income Hispanic families and to foster significant scholarship regarding the needs and experiences of the Hispanic populations throughout the nation. This ACF-sponsored research center develops research products and research-based resources that aim to build research capacity in the field and to improve understanding of Hispanic populations in order to inform policy development and programmatic responses.

The award of a single-source expansion supplement to this research center will support activities to develop research-based resources to inform ACF program offices, current and future ACF grantees, and potential ACF grant applicants about the characteristics and needs of underserved and under-represented populations.

Statutory Authority: Section 1110 of the Social Security Act (42 U.S.C. 1310).

Melody Wayland,

Senior Grants Policy Specialist, Office of Administration, Office of Financial Services/Division of Grants Policy.

[FR Doc. 2014–26226 Filed 11–4–14; 8:45 am]

BILLING CODE 4184–07–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1721]

Agency Information Collection Activities; Proposed Collection; Comment Request; Investigational New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. 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 of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on regulations under which the clinical investigation of the safety and effectiveness of unapproved new drugs and biological products can be conducted.

DATES: Submit either electronic or written comments on the collection of information by January 5, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA 305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food

and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: 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. ''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 provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Investigational New Drug (IND) Regulations—21 CFR Part 312 (OMB Control Number 0910–0014)—Extension

FDA is requesting OMB approval for the reporting and recordkeeping requirements contained in FDA regulations entitled ''Investigational New Drug Application'' in 21 CFR part 312 (part 312). Part 312 implements provisions of section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) (the FD&C Act) to issue regulations under which the clinical investigation of the safety and effectiveness of unapproved new drugs and biological products can be conducted.

FDA is charged with implementing statutory requirements that drug products marketed in the United States be shown to be safe and effective, properly manufactured, and properly labeled for their intended uses. Section 505(a) of the FD&C Act provides that a new drug may not be introduced or delivered for introduction into interstate commerce in the United States unless FDA has previously approved a new drug application (NDA). FDA approves an NDA only if the sponsor of the application first demonstrates that the drug is safe and effective for the conditions prescribed, recommended, or suggested in the product's labeling. Proof must consist, in part, of adequate and well-controlled studies, including studies in humans, that are conducted by qualified experts. The IND regulations establish reporting requirements that include an initial application as well as amendments to that application, reports on significant revisions of clinical investigation plans, and information on a drug's safety or effectiveness. In addition, the sponsor is required to give FDA an annual summary of the previous year's clinical experience.

Submissions are reviewed by medical officers and other Agency scientific reviewers assigned responsibility for overseeing the specific study. The IND regulations also contain recordkeeping requirements that pertain to the responsibilities of sponsors and investigators. The detail and complexity of these requirements are dictated by the scientific procedures and human subject safeguards that must be followed in the clinical tests of investigational new drugs.

The IND information collection requirements provide the means by which FDA can monitor the clinical investigation of the safety and effectiveness of unapproved new drugs and biological products, including the following: (1) Monitor the safety of ongoing clinical investigations; (2) determine whether the clinical testing of a drug should be authorized; (3) ensure production of reliable data on the metabolism and pharmacological action of the drug in humans; (4) obtain timely information on adverse reactions to the drug; (5) obtain information on side effects associated with increasing doses; (6) obtain information on the drug's effectiveness; (7) ensure the design of well-controlled, scientifically valid studies; (8) obtain other information pertinent to determining whether clinical testing should be continued, and information related to the protection of human subjects. Without the information provided by industry as required under the IND regulations, FDA cannot authorize or monitor the clinical investigations which must be conducted prior to authorizing the sale and general use of new drugs. These reports enable FDA to monitor a study's progress, to assure subject safety, to assure that a study will be conducted ethically, and to increase the likelihood that the sponsor will conduct studies that will be useful in determining whether the drug should be marketed and available for use in medical practice.

There are two forms that are required under part 312:

Form FDA–1571—''Investigational New Drug Application.'' A person who intends to conduct a clinical investigation submits this form to FDA. It includes the following information: (1) A cover sheet containing background information on the sponsor and investigator; (2) a table of contents; (3) an introductory statement and general investigational plan; (4) an investigator's brochure describing the drug substance; (5) a protocol for each planned study; (6) chemistry, manufacturing, and control information for each investigation; (7) pharmacology and toxicology information for each investigation; and (8) previous human experience with the investigational drug.

Form FDA–1572—''Investigator Statement.'' Before permitting an investigator to begin participation in an investigation, the sponsor must obtain and record this form. It includes background information on the investigator and the investigation, and a general outline of the planned investigation and the study protocol.

FDA is requesting OMB approval for the following reporting and recordkeeping requirements in part 312.

I. Reporting Requirements

21 CFR 312.2(e)—Requests for FDA advice on the applicability of part 312 to a planned clinical investigation.

21 CFR 312.6—Labeling of an investigational new drug. Estimates for the information collection in this requirement are included under § 312.23(a)(7)(iv)(*d*).

21 CFR 312.8—Charging for investigational drugs under an IND.

21 CFR 312.10—Applications for waiver of requirements under part 312. As indicated in § 312.10(a), estimates for the information collection in this requirement are included under §§ 312.23 and 312.31. In addition, other waiver requests under § 312.10 are estimated in table 1.

21 CFR 312.20(c)—Applications for investigations involving an exception from informed consent under § 50.24 (21 CFR 50.24). Estimates for the

information collection in this requirement are included under § 312.23.

21 CFR 312.23—IND (content and format).
.23(a)(1)—Cover sheet FDA–1571.
.23(a)(2)—Table of Contents.
.23(a)(3)—Investigational plan for each planned study.
.23(a)(5)—Investigator's brochure.
.23(a)(6)—Protocols—Phase 1, 2, and 3.
.23(a)(7)—Chemistry, manufacturing, and control information.
.23(a)(7)(iv)(*a*),(*b*),(*c*)—A description of the drug substance, a list of all components, and any placebo used.
.23(a)(7)(iv)(*d*)—Labeling: Copies of labels and labeling to be provided each investigator.
.23(a)(7)(iv)(*e*)—Environmental impact analysis regarding drug manufacturing and use.
.23(a)(8)—Pharmacological and toxicology information.
.23(a)(9)—Previous human experience with the investigational drug.
.23(a)(10)—Additional information.
.23(a)(11)—Relevant information.
.23(f)—Identification of exception from informed consent.

21 CFR 312.30—Protocol amendments.
.30(a)—New protocol
.30(b)—Changes in protocol
.30(c)—New investigator.
.30(d)—Content and format.
.30(e)—Frequency.

21 CFR 312.31—Information amendments.
.31(b)—Content and format.
—Chemistry, toxicology, or technical information.

21 CFR 312.32—Safety reports.
.32(c)(1)—Written reports to FDA and to investigators.
.32(c)(2)—Telephone reports to FDA for fatal or life-threatening experience.
.32(c)(3)—Format or frequency.
.32(d)—Followup submissions.

21 CFR 312.33—Annual reports.
.33(a)—Individual study information.
.33(b)—Summary information.
(b)(1)—Adverse experiences.
(b)(2)—Safety report summary.
(b)(3)—List of fatalities and causes of death.
(b)(4)—List of discontinuing subjects.
(b)(5)—Drug action.
(b)(6)—Preclinical studies and findings.
(b)(7)—Significant changes.
.33(c)—Next year general investigational plan.
.33(d)—Brochure revision.
.33(e)—Phase I protocol modifications.
.33(f)—Foreign marketing developments.

21 CFR 312.38(b) and (c)—Notification of withdrawal of an IND.

21 CFR 312.41—Comment and advice on an IND. Estimates for the information collection in this requirement are included under § 312.23.

21 CFR 312.42—Sponsor requests that a clinical hold be removed, and submits a complete response to the issues identified in the clinical hold order.

21 CFR 312.44(c) and (d)—Opportunity for sponsor response to FDA when IND is terminated.

21 CFR 312.45(a) and (b)—Sponsor request for, or response to, an inactive status determination of an IND.

21 CFR 312.47—Meetings, including ''End-of-Phase 2'' meetings and ''Pre-NDA'' meetings.

21 CFR 312.48—Dispute resolution. Estimates for the information collection in this requirement are included under § 312.47.

21 CFR 312.53(c)—Investigator information. Investigator report (Form FDA–1572) and narrative; Investigator's background information; Phase 1 outline of planned investigation and Phase 2 outline of study protocol.

21 CFR 312.54(a) and (b)—Sponsor submissions concerning investigations involving an exception from informed consent under § 50.24.

21 CFR 312.55(b)—Sponsor reports to investigators on new observations, especially adverse reactions and safe use. Only ''new observations'' are estimated under this section; investigator brochures are included under § 312.23.

21 CFR 312.56(b), (c), and (d)—Sponsor monitoring of all clinical investigations, investigators, and drug safety; notification to FDA and others.

21 CFR 312.58(a)—Sponsor's submission of records to FDA on request.

21 CFR 312.64—Investigator reports to the sponsor.
.64(a)—Progress reports.
.64(b)—Safety reports
.64(c)—Final reports.
.64(d)—Financial disclosure reports.

21 CFR 312.66—Investigator reports to institutional review board (IRB). Estimates for the information collection in this requirement are included under § 312.53.

21 CFR 312.70—Investigator disqualification; opportunity to respond to FDA.

21 CFR 312.83—Sponsor submission of treatment protocol. Estimates for this requirement are included under § 312.320.

21 CFR 312.85—Sponsors conducting phase 4 studies. Estimates for the information collection in this requirement are included under § 312.23, and under §§ 314.50, 314.70, and 314.81 in OMB control number 0910–0001.

21 CFR 312.110(b)—Requests to export an investigational drug.

21 CFR 312.120—Submissions related to foreign clinical studies not conducted under an IND.

21 CFR 312.130—Requests for disclosable information in an IND and from investigations involving an exception from informed consent under § 50.24.

21 CFR 312.310(b); 312.305(b)—Submissions related to expanded access and treatment of an individual patient.

21 CFR 312.310(d)—Submissions related to emergency use of an investigational new drug.

21 CFR 312.315(c); 312.305(b)—Submissions related to expanded access and treatment of an intermediate-size patient population.

21 CFR 312.320—Submissions related to a treatment IND or treatment protocol.

II. Recordkeeping Requirements

21 CFR 312.52(a)—Transfer of obligations to a contract research organization.

21 CFR 312.57—Sponsor recordkeeping on the investigational drug.

21 CFR 312.59—Sponsor recordkeeping of disposition of unused supply of drugs. Estimates for the information collection in this requirement are included under § 312.57.

21 CFR 312.62(a)—Investigator recordkeeping of disposition of drugs.

21 CFR 312.62(b)—Investigator recordkeeping of case histories of individuals.

21 CFR 312.120(d)—Recordkeeping requirements for submissions related to foreign clinical studies not conducted under an IND. Estimates for the information collection in this requirement are included under § 312.57.

21 CFR 312.160(a)(3)—Records pertaining to the shipment of drugs for investigational use in laboratory research animals or in vitro tests.

21 CFR 312.160(c)—Shipper records of alternative disposition of unused drugs.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
312.2(e), Requests for FDA advice on the applicability of part 312 to a planned clinical investigation	800	1	800	24	19,200
312.8, Requests to charge for an investigational drug	56	1.25	70	48	3,360
312.10, Requests to waive a requirement in part 312	50	1.76	88	24	2,112
312.23(a) through (f), IND content and format (including Form FDA 1571)	1,689	1.57	2,648	1,600	4,236,800
312.30(a) through (e), Protocol amendments	3,739	5.77	21,588	284	6,130,992
312.31(b), Information amendments	4,537	3.39	15,377	100	1,537,700
312.32(c) and (d), IND Safety reports	755	24.28	18,332	32	586,624
312.33(a) through (f), IND Annual reports	2,877	2.76	7,953	360	2,863,080
312.38(b) and (c), Notifications of withdrawal of an IND	862	1.54	1,328	28	37,184
312.42, Sponsor requests that a clinical hold be removed, including sponsor submission of a complete response to the issues identified in the clinical hold order	158	1.30	205	284	58,220
312.44(c) and (d), Sponsor responses to FDA when IND is terminated	12	1	12	16	192
312.45(a) and (b), Sponsor requests for or responses to an inactive status determination of an IND by FDA	260	1.73	451	12	5,412
312.47, Meetings, including ''End-of-Phase 2'' meetings and ''Pre-NDA'' meetings	225	1.86	419	160	67,040
312.53(c), Investigator reports submitted to the sponsor, including Form FDA 1572, curriculum vitae, clinical protocol, and financial disclosure. (Third party disclosure)	1,444	8.38	12,087	80	966,960
312.54(a), Sponsor submissions to FDA concerning investigations involving an exception from informed consent under 21 CFR 50.24	7	5	35	48	1,680
312.54(b), Sponsor notifications to FDA and others concerning an IRB determination that it cannot approve research because it does not meet the criteria in the exception from informed consent in § 50.24(a). (Includes third party disclosure)	7	1	7	48	336
312.55(a), Investigator brochures submitted by the sponsor to each investigator. (Third party disclosure)	590	3.50	2,067	48	99,216
312.55(b), Sponsor reports to investigators on new observations, especially adverse reactions and safe use. (Third party disclosure)	590	3.50	2,067	48	99,216
312.56(b), (c), and (d), Sponsor notifications to FDA and others resulting from: (1) The sponsor's monitoring of all clinical investigations and determining that an investigator is not in compliance with the investigation agreements; (2) the sponsor's review and evaluation of the evidence relating to the safety and effectiveness of the investigational drug; and (3) the sponsor's determination that the investigational drug presents an unreasonable and significant risk to subjects. (Includes third party disclosure)	3,584	6.52	23,355	80	1,868,400
312.58(a), Sponsor's submissions of clinical investigation records to FDA on request during FDA inspections	60	1	60	8	480
312.64, Investigator reports to the sponsor, including progress reports, safety reports, final reports, and financial disclosure reports. (Third party disclosure)	1,444	1	1,444	24	34,656
312.70, During the disqualification process of a clinical investigator by FDA, the number of investigator responses or requests to FDA following FDA's notification to an investigator of its failure to comply with investigation requirements	4	1	4	40	160
312.110(b)(4) and (b)(5), Written certifications and written statements submitted to FDA relating to the export of an investigational drug	11	26.28	289	75	21,675
312.120(b), Submissions to FDA of ''supporting information'' related to the use of foreign clinical studies not conducted under an IND	1,414	8.63	12,198	32	390,336
312.120(c), Waiver requests submitted to FDA related to the use of foreign clinical studies not conducted under an IND	35	2.34	82	24	1,968
312.130, Requests for disclosable information in an IND and for investigations involving an exception from informed consent under § 50.24	3	1	3	8	24

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS [1]—Continued

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
312.310(b) and 312.305(b), Submissions related to expanded access and treatment of an individual patient	228	1.76	401	8	3,208
312.310(d), Submissions related to emergency use of an investigational new drug	410	2.19	899	16	14,384
312.315(c) and 312.305(b), Submissions related to expanded access and treatment of an intermediate-size patient population	44	7.07	311	120	37,320
312.320(b), Submissions related to a treatment IND or treatment protocol	12	12.67	152	300	45,600
Total					19,134,039

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR HUMAN DRUGS[1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
312.52(a), Sponsor records for the transfer of obligations to a contract research organization.	335	1.50	503	2	1,006
312.57, Sponsor recordkeeping showing the receipt, shipment, or other disposition of the investigational drug, and any financial interests.	1,689	1	1,689	100	168,900
312.62(a), Investigator recordkeeping of the disposition of drugs.	1,444	1	1,444	40	57,760
312.62(b), Investigator recordkeeping of case histories of individuals.	1,444	1	1,444	40	57,760
312.160(a)(3), Records pertaining to the shipment of drugs for investigational use in laboratory research animals or in vitro tests.	547	1.40	782	0.50 (30 minutes).	391
312.160(c) Shipper records of alternative disposition of unused drugs.	547	1.40	782	0.50 (30 minutes).	391
Total					286,190

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICS[1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
312.2(e), Requests for FDA advice on the applicability of part 312 to a planned clinical investigation	217	1.18	255	24	6,120
312.8, Requests to charge for an investigational drug	20	1.50	30	48	1,440
312.10, Requests to waive a requirement in part 312	2	1	2	24	48
312.23(a) through (f), IND content and format	335	1.35	452	1,600	723,200
312.30(a) through (e), Protocol amendments	694	5.84	4,050	284	1,150,200
312.31(b), Information amendments	77	2.43	187	100	18,700
312.32(c) and (d), IND Safety reports	161	8.83	1,421	32	45,472
312.33(a) through (f), IND Annual reports	745	2.14	1,595	360	574,200
312.38(b) and (c), Notifications of withdrawal of an IND	134	1.69	227	28	6,356
312.42, Sponsor requests that a clinical hold be removed, including sponsor submission of a complete response to the issues identified in the clinical hold order	67	1.30	87	284	24,708
312.44(c) and (d), Sponsor responses to FDA when IND is terminated	34	1.15	39	16	624
312.45(a) and (b), Sponsor requests for or responses to an inactive status determination of an IND by FDA	55	1.38	76	12	912
312.47, Meetings, including "End-of-Phase 2" meetings and "Pre-NDA" meetings	88	1.75	154	160	24,640
312.53(c), Investigator reports submitted to the sponsor, including Form FDA–1572, curriculum vitae, clinical protocol, and financial disclosure	453	6.33	2,869	80	229,520

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICS[1]—Continued

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
312.54(a), Sponsor submissions to FDA concerning investigations involving an exception from informed consent under § 50.24	1	1	1	48	48
312.54(b), Sponsor notifications to FDA and others concerning an IRB determination that it cannot approve research because it does not meet the criteria in the exception from informed consent in § 50.24(a)	1	1	1	48	48
312.55(a), Number of investigator brochures submitted by the sponsor to each investigator	239	1.91	457	48	21,936
312.55(b), Number of sponsor reports to investigators on new observations, especially adverse reactions and safe use	243	4.95	1,203	48	57,744
312.56(b), (c), and (d), Sponsor notifications to FDA and others resulting from: (1) The sponsor's monitoring of all clinical investigations and determining that an investigator is not in compliance with the investigation agreements; (2) the sponsor's review and evaluation of the evidence relating to the safety and effectiveness of the investigational drug; and (3) the sponsor's determination that the investigational drug presents an unreasonable and significant risk to subjects	108	2.21	239	80	19,120
312.58(a), Number of sponsor's submissions of clinical investigation records to FDA on request during FDA inspections	7	1	7	8	56
312.64, Number of investigator reports to the sponsor, including progress reports, safety reports, final reports, and financial disclosure reports	2,728	3.82	10,411	24	249,864
312.70, During the disqualification process of a clinical investigator by FDA, the number of investigator responses or requests to FDA following FDA's notification to an investigator of its failure to comply with investigation requirements	5	1	5	40	200
312.110(b)(4) and (b)(5), Number of written certifications and written statements submitted to FDA relating to the export of an investigational drug	18	1	18	75	1,350
312.120(b), Number of submissions to FDA of "supporting information" related to the use of foreign clinical studies not conducted under an IND	280	9.82	2,750	32	88,000
312.120(c), Number of waiver requests submitted to FDA related to the use of foreign clinical studies not conducted under an IND	7	2.29	16	24	384
312.130, Number of requests for disclosable information in an IND and for investigations involving an exception from informed consent under § 50.24	350	1.34	470	8	3,760
312.310(b) and 312.305(b), Number of submissions related to expanded access and treatment of an individual patient	78	1.08	84	8	672
312.310(d), Number of submissions related to emergency use of an investigational new drug	76	2.76	210	16	3,360
312.315(c) and 312.305(b), Number of submissions related to expanded access and treatment of an intermediate-size patient population	9	1	9	120	1,080
312.320(b), Number of submissions related to a treatment IND or treatment protocol	1	1	1	300	300
Total					3,254,062

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 4—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR BIOLOGICS[1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
312.52(a), Sponsor records for the transfer of obligations to a contract research organization.	75	1.40	105	2	210

TABLE 4—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR BIOLOGICS[1]—Continued

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
312.57, Sponsor recordkeeping showing the receipt, shipment, or other disposition of the investigational drug, and any financial interests.	335	2.70	904	100	90,400
312.62(a), Investigator recordkeeping of the disposition of drugs.	453	1	453	40	18,120
312.62(b), Investigator recordkeeping of case histories of individuals.	453	1	453	40	18,120
312.160(a)(3), Records pertaining to the shipment of drugs for investigational use in laboratory research animals or in vitro tests.	111	1.40	155	0.50 (30 minutes).	78
312.160(c), Shipper records of alternative disposition of unused drugs.	111	1.40	155	0.50 (30 minutes).	78
Total					127,006

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 31, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–26304 Filed 11–4–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1119]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA or we) is correcting a notice that appeared in the **Federal Register** of August 14, 2014. The notice announced that a proposed collection of information had been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. In this document, we correct some errors that appeared in the notice.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2014–19241, appearing on page 47642 in the **Federal Register** of August 14, 2014 (79 FR 47642), we make the following corrections:

1. On page 47643, in the second column, in the Response to Comment 3, delete the sentence starting with ''The scope of the voluntary submission . . . and the product label.''

2. On page 47643, in the second column, in the Response to Comment 3, in the sentence starting with ''Consequently, we have proposed . . .,'' delete ''institute the voluntary consultation process discussed in this document'' and replace it with ''provide for the voluntary registration and Form FDA 2541e submission process''.

3. On page 47643, in the second and third columns, in the Response to Comment 3, delete the sentences starting with ''The ability to submit a voluntary submission . . . of part 114'' and the remaining sentences in the response and replace them with ''FDA has authority to implement the voluntary submission process under sections 402 and 404 of the FD&C Act.''

4. On page 47643, in the third column, in the Response to Comment 4, replace the response with the following: ''A voluntary process filing submission will not result in part 114 applying to products that are not acidified foods as defined in 21 CFR 114.3(b). Further, the voluntary process filing submission process will not result in any changes to part 114.''

5. On pages 47643 to 47644, in the third column on page 47643 and in the first column on page 47644, in the Response to Comment 5, replace the response with the following: ''Our inspectors will not expect all manufacturers to submit voluntary submissions.''

6. On page 47644, in the first column, in the Response to Comment 7, replace the response with the following: ''As discussed in the response to Comment 4, if a product is not an acidified food, the product is not subject to the good manufacturing practice requirements in part 114 and will not become subject to those regulations as a result of a voluntary submission.''

7. On page 47644, in the first and second columns, in the Response to Comment 8, replace the response with the following: ''The draft guidance did address the issue of what constitutes a fermented food. We expect that the acidified foods guidance, when finalized, will provide guidance on what constitutes a fermented food.''

8. On page 47644, in the second column, in the Response to Comment 9, replace the response with the following: ''Manufacturers are free to decide whether to make a voluntary submission, and we believe that some manufacturers may choose to do so. For FDA, the voluntary submission results in increased efficiency.''

9. On page 47644, in the second and third columns, in the Response to Comment 10, delete the first paragraph of the response and delete the second sentence in the second paragraph of the response.

10. On page 47645, in the first column, in the Response to Comment 13, in the second sentence in the second paragraph of the response, delete ''to prevent the detention of product''.

11. On page 47645, in the third column, in the Response to Comment 20, in the first sentence of the response, replace ''and provides'' with ''and, when finalized, will provide''.

12. On page 47646, in the first column, in the Response to Comment 21, in the first sentence of the response, delete ''from the coverage of part 114'' and, at the end of the first sentence of the response, insert ''or that do not otherwise meet the definitions of acidified food.''

13. On page 47646, in the first column, in the Response to Comment 22, replace the response with the following: ''FDA does not agree that the 'Food Product Group' categories in any way indicates FDA's thinking as to whether all fruit and vegetable juices are acidified foods and are therefore subject to the acidified foods regulations in parts 108 and 114. Rather, the 'Food Product Group' categories are designed to help FDA understand the nature of products. For more information on what constitutes an acidified food, we recommend manufacturers consult the definition of acidified foods in § 114.3(b).''

14. On page 47646, in the second column, in the Response to Comment 24, replace the second paragraph of the response with the following: ''When optional information about the 'Food Product Group' category is provided, we will use it to help us understand the nature of the products and to help us prioritize which facilities to inspect.''

Dated: October 30, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–26238 Filed 11–4–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 11, 2014, from 8 a.m. to 3:30 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Caleb Briggs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: Information will be presented to gauge investigator interest in exploring potential pediatric development plans for three products in various stages of development for adult cancer indications. The subcommittee will consider and discuss issues concerning diseases to be studied, patient populations to be included, and possible study designs in the development of these products for pediatric use. The discussion will also provide information to the Agency pertinent to the formulation of written requests for pediatric studies, if appropriate. The products under consideration are: (1) GANETESPIB, application submitted by Synta Pharmaceuticals Corp. (2) Etirinotecan, application submitted by Nektar Therapeutics, and (3) RO5503781, application submitted by Hoffmann-La Roche, Inc.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before December 3, 2014. Oral presentations from the public will be scheduled between approximately 8:55 a.m. to 9:15 a.m., 11:10 a.m. to 11:30 a.m., and 2:10 p.m. to 2:30 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 25, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 26, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Caleb Briggs at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 30, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–26237 Filed 11–4–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Centers for Disease Control and Prevention (CDC)/Health Resources and Services Administration (HRSA) Advisory Committee on HIV, Viral Hepatitis, and Sexually Transmitted Disease (STD) Prevention and Treatment

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice; correction.

SUMMARY: The Health Resources and Services Administration published a notice in the **Federal Register**, FR 2014–25199 (October 23, 2014), announcing the meeting for the Centers for Disease Control and Prevention (CDC)/Health Resources and Services Administration (HRSA) Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment. The action is to provide correction to the virtual meeting audio access code.

Correction: In the **Federal Register**, FR 2014–25199 (October 23, 2014), please make the following corrections:

Join the meeting by:

1. (Audio Portion) Calling the Toll free Phone Number 1–888–942–8515 and providing the Participant Pass Code 9582370, and

2. (Visual Portion) Connecting to the Advisory Committee Adobe Connect Pro Meeting using the following URL: https://hrsa.connectsolutions.com/cdchrsa_advcmt/.

Dated: October 29, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–26225 Filed 11–4–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Organization, Functions, and Delegations of Authority

Part G

Indian Health Service

Part G, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), as amended at 70 FR 60350, October 17, 2005, and most recently as amended at 75 FR 38112, July 1, 2010 is hereby amended to establish an Office of Human Resources (OHR) and transfer the functions and staff from the Program Integrity and Ethics Staff (renamed as Division of Personnel Security and Ethics), Division of Commissioned Personnel Support, and Division of Human Resources, from the Office of Management Services and the Division of Health Professions Support, from the Office of Public Health Support to the Office of Human Resources within the IHS Headquarters (HQ) organizational structure. The OHR will ensure a competent work force appropriately assigned to carry out the IHS mission. The changes will relocate major human resources (HR) components within a single organization that reports to the Director, IHS. The Office will provide leadership and accountability of Agency personnel requirements, recruitment and retention, management, and training and development objectives and activities to support the Agency's mission.

Office of Human Resources (OHR) (GAN)

(1) Advises the Director, IRS, on HR goals, objectives, policies, and priorities of the Agency and the HR profession; (2) provides leadership, direction, and oversight of Agency-wide HR activities that support the IHS organization and programs; (3) develops and maintains strategic and operational HR plans to ensure a current and future work force for management, program delivery, and administrative support systems; (4) furthers the Agency's Indian Preference by ensuring compliance with Indian Preference statutory and policy requirements; (5) develops, promulgates, and administers Agency HR guidelines, and instructions in accordance with Office of Personnel Management (OPM), HHS, Public Health Service policies and the Indian Health Care Improvement Act (IHCIA), as amended; (6) ensures consistency in recruitment, training, and development applications, approaches, and outcomes by administering an Agency-wide HR system of functional responsibility, authority, and accountability; (7) issues standards to monitor and evaluate all IRS training and development activities and ensures that expenditures for recruitment, training, and development support the Agency's mission and goals; (8) provides Agency-wide policy guidance, consultation, and technical assistance on all IHS HR management, recruitment, and retention activities; (9) manages Agency work force information and conducts analyses, including trends analysis and forecasting necessary for Agency HR planning, management, and evaluation; (10) administers an Agency-wide information clearinghouse on HR recruitment, training, and development that serves all IHS organizations and Tribal health programs; (11) directs the Agency-wide scholarship, loan repayment, professional recruitment and retention, training, and development systems; (12) administers personnel management operations and services for HQ organizational units; (13) ensures a safe, healthy, and productive work environment for IHS personnel to carry out their assigned duties and responsibilities, and that HR factors are part of the Agency's decision making processes; (14) establishes and maintains liaison and coordination with a variety of public and private organizations to provide the IHS with up-to-date HR recruitment, management, training, retention and development technologies; (15) ensures that organization and program changes involve assessments of appropriate HR requirements, including work design, knowledge, skills, abilities, and work load; (16) prepares reports and studies reflecting IHS HR activities in response to the Congress, other Federal agencies, and Tribal Governments; and (17) participates in cross-cutting issues and processes, including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Division of Personnel Security and Ethics (DPSE) (GANA)

(1) Advises the IHS Director and IHS management and supervisors of appropriate corrective and remedial actions to address or correct improprieties by Agency employees; (2) directs and provides leadership in the formulation of plans, guidance and evaluation of the IHS Personnel Security and Drug Testing Programs; (3) manages and directs the IHS ''Ethics Program'',

including the implementation of all requirements, providing advice to the IHS Director and serving as the Agency liaison with all outside investigative organizations related to personnel matters, such as the Office of Special Counsel, the Government Accountability Office (GAO) and the Office of Inspector General (OIG); (4) directs and monitors the annual required ethics training and ethics training of new employees within the required dates; (5) directs the fact-finding and resolution of allegations against Agency personnel of impropriety such as mismanagement of resources, fraud, waste, and abuse violations of the Standards of Ethical Conduct, Hatch Act and political activity and other forms of waste; (6) administers the IHS-wide management of the Agency hotline reports of allegations; and (7) develops and implements IHS directives and training for Standards of Ethical Conduct, Hatch Act and political activity, allegations and investigations of administrative fraud, waste and abuse, drug testing, and personnel security.

Personnel Security Branch (PSB) (GANA1)

(1) Administers and coordinates the IRS personnel security program and IHS drug testing program; (2) administers and coordinates all background checks and adjudicates findings; (3) coordinates with the OPM on tracking background checks for all Agency personnel; (4) works with IHS Area Office Personnel Security Representatives on timely processing of backgrounds and adjudication of findings; and (5) provides guidance for determining position sensitivity in accordance with the OPM requirements for position sensitivity and public trust.

Ethics Branch (EB) (GANA2)

(1) Administers and coordinates the IHS ethics program, including the implementation of all requirements and providing advice to the Agency on actions necessary to ensure compliance with ethics laws and policies; (2) reviews and approves public financial disclosure statements; (3) supervises and audits the confidential financial reports filed by regular and special government employees; (4) reviews and clears all requests for approval of outside activity and requests to accept travel expenses from non-Federal sources; (5) provides advice and assistance to current and former employees to ensure that decisions they make, and actions they take, are not, nor appear to be, affected by any question of conflict of interest; and (6) trains Agency employees on ethics statutes and regulations.

Division of Commissioned Personnel Support (DCPS) (GANB)

(1) Acts as the liaison between IHS and the Office of the Surgeon General (OSG), Division of Commissioned Corps Personnel and Readiness (DCCPR), and Division of Systems Integration; (2) advises the IHS Director, HQ Office Directors, Area Directors, supervisors, administrators, managers, officers and dependents regarding commissioned personnel benefits, policies, procedures, and regulations, as the IHS primary point of contact for commissioned personnel management; (3) develops Agency policies, procedures, and recommendations to Agency senior leadership regarding commissioned personnel management and provides recommendations to the DCCPR regarding commissioned corps policy; (4) provides direct support to the IHS Director and/or the Agency representative to the OSG as the Agency's official Surgeon General's Policy Advisory Council representative; (5) produces resource materials and conducts training sessions on commissioned personnel issues for officers, supervisors, and commissioned personnel specialists in IHS Area Offices; (6) manages the Agency honor and service award program for commissioned personnel; (7) facilitates and monitors the progress of Agency commissioned personnel adverse actions to assure accuracy, timeliness, and completion; (8) prepares reports reflecting INS commissioned corps activities in response to requests from Agency leadership, Congress, other Federal agencies, and Tribal Governments; (9) reviews and processes all commissioned personnel actions for the Agency; (10) develops and manages all Agency commissioned personnel direct access positions; (11) provides oversight and coordination of Temporary, Permanent, and Exception Proficiency Promotion processes; (12) evaluates need, develops, and provides commissioned personnel training, orientation, workshops, and seminars; (13) acts as a subject matter expert and advises Agency travel officials on commissioned personnel travel and Joint Federal Travel Regulation policy; (14) coordinates with DCCPR on all Agency deployment processes, obtains Agency approvals for officer deployments, provides oversight and tracks the status of Agency commissioned personnel during deployments; (15) facilitates and monitors all medical and compensation processes (including special pays) for accuracy, timeliness, and completion; and (16) advises Agency supervisors on the performance, discipline, and conduct of commissioned personnel.

Division of Human Resources (DHR) (GANC)

(1) Provides overall leadership and direction for the IHS HR program; (2) evaluates, establishes and implements HR policies for Agency-wide use and provides leadership to ensure implementation; (3) provides advice, consultation, guidance and assistance to IHS Leadership, Areas, and Regional HR Centers on civil service HR issues, programs and policies; (4) provides leadership and direction to the IFS Regional HR Centers; (5) provides recruitment, classification, and performance management services for all Senior Executive Service positions; and (6) manages the overall IHS appointment authority, personnel and pay action functions for civil service employees.

HR Systems and Analytics Branch (HRSAB) (GANC1)

(1) Serves as advisor to IHS leadership on HR systems solutions for IHS business needs; (2) provides project management for enterprise HR systems and functional aspects of IHS public and internal Web sites; (3) collaborates with business process owners to perform requirements analysis, selection, testing, implementation, deployment, and support and recommend future enhancements for HHS HR systems and reporting solutions; (4) analyzes HR metrics/benchmarks, internal DHR business practices, processes, and programs to enable the organization to make better decisions concerning our human capital resources; (5) coordinates and implements system access requirements which uphold the IHS security policies; and (6) serves as H–IS advocates for Human Resources Information System programs to ensure they meet IRS business and process needs.

HQ Client Services Branch (CSB) (GANC2)

(1) Provides core HR advice, operational functions and services (in the areas of strategic recruitment, staffing, delegated examining, position classification, payroll, timekeeping, performance management, awards, and Federal benefit programs), strategic human capital and workforce planning, succession planning, E-government HR initiatives and strategic planning for IHS HQ Offices; (2) provides advice, consultation, guidance and assistance to HQ Office Directors, management

officials, employees and other customers on HR operational services, programs, and policies; (3) interfaces with staff of the other DHR Branches to provide for a full range of HR operational services to the HQ; and (4) complies with Indian Preference statutory and policy requirements in HR practices.

Workforce Relations and Policy Branch (WRPB) (GANC3)

(1) Develops, administers and evaluates a variety of services, products, and program policies in the areas of employee and labor relations, performance management and awards; (2) provides HR advisory and consulting services to IHS management and Regional HR management and staff while developing, administering, and evaluating compensation policy and programs designed to recruit, compensate, and retain a highly qualified, motivated, and diverse workforce; (3) provides support and assistance to the IHS leadership with planning and preparing IHS workforce programs; (4) responsible for the development and implementation of HR policies, and management of HR delegations of authority; (5) develops and provides guidance and oversight for policy for Title 5 employment mechanisms, and coordinates HR programs and policies with HHS; and (6) responds to a variety of HR issues and cases that arise from the IHS HQ and Areas that are precedent-setting, controversial, and/or require sensitive handling.

Regional Human Resource Centers—(RHRO) (GANC4–8)

Western Region (GANC4)

Northern Plains Region (GANC5)

Southwest Region (GANC6)

Navajo Region (GANC7)

Southeast Region (GANC8)

(1) Provides overall leadership and direction for the IHS HR program within the established Region; (2) administers HR policies and regulations and provides leadership to ensure implementation; (3) provides advice, consultation, guidance and assistance to Area Directors, management officials, employees and other customers on civil service HR issues, programs and policies; (4) provides leadership and direction to the HR staff throughout the Region; (5) assures compliance with Indian Preference statutory and policy requirements in HR practices; (6) provides HR services throughout the Region, to include, but not limited to, strategic human capital and workforce planning, succession planning, E-government HR initiatives and strategic planning, HR program evaluation and oversight; strategic consultation, management advisory services, HR leadership, classification and pay administration, staffing and placement, personnel and payroll action processing, labor-management and employee relations, benefits administration and performance management; (7) provides advice, consultation, and assistance to management and when requested to Tribal officials on Tribal health program HR issues; (8) plans, administers and evaluates HR programs; (9) plans and implements HR responsibilities for IHS programs covered by the Region's appointing authority; and (10) represents the Region in matters involving HR program responsibilities.

Division of Health Professions Support (DHPS) (GAND)

(1) Develops and implements IHS programs to recruit, select, assign, and retain health care professionals and coordinates these activities with the respective disciplines; (2) assesses professional staffing needs and coordinates the development of strategies and systems to satisfy these needs; (3) coordinates the planning and development of IHS strategies and systems to improve the morale and retention of all professionals; (4) coordinates HQ activities for physician residency and training programs; (5) coordinates the IHS National Health Service Corps (NHSC) program, including liaison and assignment of NHSC scholarship recipients to IRS; (6) develops priority sites for the loan repayment program; (7) coordinates placement of professionals with loan repayment obligations; (8) serves as IHS coordinator for preparatory, pre-graduate and health professions IHS scholarship recipients; (9) retrieves, establishes, and manages information and data on the IHS work force; and (10) conducts work force data analyses, including trends and projections, identifying work force needs by major personnel systems, categories, and disciplines.

Health Professions Support Branch (HPSB) (GAND1)

(1) Develops the IHS program to recruit, select, assign, and retain health care professionals, in accordance with policies and guidance provided by the DHR; (2) assesses IHS professional staffing needs; (3) provides research and analysis functions related to recruitment and retention of health professionals for Chief Medical Officers, Clinical Directors, and senior clinicians; (4) manages and supports health professions education programs and activities; (5) processes waivers and defaults of participants in IHS scholarship programs and the IHS Loan Repayment Program (LRP) as mandated by Section 108 of the IHCIA; (6) coordinates the debt management function with the Program Support Center; and (7) develops and administers Indian Health Professions programs authorized by the IHCIA, as amended.

Loan Repayment Branch (LRB) (GAND2)

(1) Awards and places recipients in IHS, Tribal, and Urban sites and monitors and processes waivers and defaults of participants in the LRP as mandated by Section 108 of the IHCIA; and (2) coordinates program administration with the IHS Area Office and Service Unit personnel, particularly recruitment and retention activities, including Chief Medical Officers, Clinical Directors, and professional recruiters.

Scholarships Branch (SB) (GAND3)

Develops, administers, and evaluates programs in the IHS Scholarship Program authorized under the IHCIA: Section 102 (Health Professions Recruitment Program for Indians), Section 103 (Health Professions Preparatory Scholarship Program for Indians), Section 104 (Indian Health Professions Scholarship Program), Section 105 (IHS Extern Program), Section 112 (Nursing Program), Section 114 (INMED Program), Section 120 (Matching Grants to Tribes for Scholarship Programs), Section 217 (American Indians Into Psychology Program), and other funded programs authorized under the IHCIA.

Office of Public Health Support (OPHS) (GAH)

(1) Advises and supports the IHS Director on policy, budget formulation, and resource allocation regarding the operation and management of IHS, Tribal, and Urban Indian health programs; (2) provides IHS-wide leadership, guidance and support for public health program and activities including strategic planning, evaluation, Government Performance and Results Act (GPRA), research, epidemiology, and statistics; (3) provides Agency-wide leadership and consultation to IHS, Tribal, and Urban Indian health programs on IHS goals, objectives, policies, standards, and priorities; (4) advocates for the public health needs and concerns of Al/AN and promotes quality health care; (5) manages and

provides national leadership and consultation for IHS on assessments of public health medical services, research agendas, special pay, and public health initiatives for the Agency; (6) supports and advocates for AI/AN to access State and local public health programs; and (7) participates in cross-cutting issues and processes including, but not limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Division of Epidemiology and Disease Prevention (DEDP) (GAHA)

(1) Prevents and controls chronic and communicable disease through epidemiology and applied public health practice; (2) builds capacity in Tribal communities through a network of Tribal Epidemiology Centers; (3) collaborates with the Centers for Disease Control and Prevention (CDC) and directs staff detailed to the IRS from the CDC; (4) describes causes, patterns, and risk factors for disease and death, and develops public health policy and interventions; (5) serves IHS and Tribal communities through disease surveillance, health data management, analysis and reporting, community surveys, emergency response, training in public health practice and epidemiology, consultation to clinicians and technical support for public health activities and assessment of public health system performance; (6) supports epidemiology, disease control, and prevention programs for chronic diseases, including cancer, tobacco control, cardiovascular disease, diabetes, kidney disease, environmental health, maternal health, child health, and others; and (7) supports epidemiology, disease control, and prevention programs for communicable diseases, including tuberculosis, HIV/AIDS, sexually-transmitted diseases, hepatitis, hantavirus, antibiotic-resistant infections, immunizations, bioterrorism preparedness and others.

Chronic Disease Branch (CDB)

Supports epidemiology, disease control, and prevention programs for chronic diseases, including cancer, tobacco control, cardiovascular disease, diabetes, kidney disease, environmental health, maternal health, child health, and others.

Infectious Disease Branch (IDB)

Supports epidemiology, disease control, and prevention programs for communicable diseases, including tuberculosis, HIV/AIDS, sexually-transmitted diseases, hepatitis, hantavirus, antibiotic-resistant infections, immunizations, bioterrorism preparedness, and others.

Division of Program Statistics (DPS) (GAHB)

(1) Plans, develops, directs, and coordinates an analytical statistical reporting program to provide data for measuring the health status and unmet health needs of the Al/AN population; (2) develops and coordinates the collection, processing, and analysis of demographic, patient care, and clinical data for the Agency; (3) maintains, analyzes, makes accessible, and publishes results from national demographic and clinical analyses; and (4) provides statistical and analytical consultation to other divisions and agencies.

Demographics Statistics Staff (DS)

(1) Plans, develops and executes a major nation-wide statistical program for the collection, processing, analysis and dissemination of demographic characteristics of the AT/AN population located throughout the United States; (2) coordinates with the National Center for Health Statistics the analysis and reporting of vital event information for the AT/AN population; and (3) provides statistical and analytical consultation to other divisions and agencies.

Patient Care Statistics Staff (PCSS)

(1) Plans, develops and executes a major nation-wide statistical program for the collection, processing, analysis and dissemination of patient care data and special studies with emphasis on health and demographic characteristics of the Al/AN population located throughout the United States; (2) evaluates facility workload trends and participates in the development of methodologies for constructing long-range estimates of inpatient and ambulatory care workloads for use in facility construction and planning; and (3) coordinates with the IHS National Data Repositories, the analysis and reporting of program, patient care and clinical data for the Agency.

Division of Planning, Evaluation and Research (DPER) (GAHC)

(1) Develops and coordinates Agency strategic planning and performance measurement efforts (including GPRA and Program Assessment Rating Tool) with budgeting requirements in consultation with IHS program staff; (2) provides consultation and coordination on the IRS budget formulation activity for planning and data purposes; (3) conducts, facilitates, solicits, coordinates, and evaluates community-oriented practice-based research related to health problems and the delivery of care to AI/AN people and communities with a major focus on improving the health status and systems of care; (4) provides guidance and support for IHS-wide program evaluation projects; and (5) provides support for public health planning services, facilities and staffing.

Office of Management Services (OMS) (GAL)

(1) Provides IRS-wide leadership, guidance and support for the management of grants, acquisitions, records management, personal property, supply, and the regulations program; (2) formulates, administers, and coordinates the review and analysis of IRS-wide policies, delegations of authority, and organizations and functions development; (3) develops and oversees the implementation of policies, procedures and delegations of authority for IHS grants management activities, including grants added to self-governance compacts; (4) ensures that IHS policies and practices for the administrative functions identified above are consistent with applicable regulations, directives and guidance from higher echelons in the HHS and other Federal oversight agencies; (5) advises the IHS Director, in conjunction with the Office of the General Counsel (OGC), on the resolution of statutory and regulatory issues related to the MS and coordinates resolution of IHS legal issues with the OGC, IHS staff, and other Federal agencies; (6) assures that IHS appeal systems meet legal standards, in conjunction with the OGC; (7) coordinates the development, clearance, and transmittal of IHS responses and follow-up to reports issued by the OIG, the GAO, and other Federal internal and external authorities; (8) provides leadership and direction of activities for continuous improvement of management accountability and administrative systems for effective and efficient program support services IHS-wide; (9) ensures the accountability and integrity of grants and acquisition management, records management, personal property utilization and disposition of MS resources; (10) assures that the IHS management services, policies, procedures, and practices support ES Indian Self-Determination Act policies; (11) assists in the assurance of Indian access to State, local, and private health programs; (12) provides leadership and advocacy of the IHS mission and goals with the HHS, Administration, Congress, and other external authorities; and (13) participates in cross-cutting issues and processes including, but not

limited to emergency preparedness/security, budget formulation, self-determination issues, Tribal shares computations and resolution of audit findings as may be needed and appropriate.

Division of Management Policy and Internal Control (DMPIC) (GALA)

(1) Formulates, administers, and supports IHS-wide policies, delegations of authority, and organizations and functions development; (2) provides leadership, on behalf of the IHS Director, to functional area managers at IHS HQ in developing, modifying, and overseeing the implementation of IHS policies and procedures; (3) provides analysis, advisory, and assistance services to IHS managers and staff for the development, clearance, and filing of IHS directives and delegations of authority; (4) serves as principal advisor and source for technical assistance for establishment or modification of organizational infrastructures, functions, and Standard Administrative Code configurations; (5) administers the IHS Management Control Program for assuring IHS' compliance with management control requirements in the Federal Managers' Financial Integrity Act of 1982; (6) provides assistance and support to special assigned task groups; (7) conducts special program or management integrity reviews as required; (8) oversees and coordinates the annual development and submission of the Agency's Federal Activities Inventory Reform Act report to the HHS; (9) plans, develops, and administers the IHS personal property management program in conformance with Federal personal property management laws, regulations, policies, procedures, practices, and standards; (10) interprets regulations and provides advice on execution and coordination of personal property management policies and programs; (11) administers management systems and methods for planning, utilizing, and reporting on personal property programs, including the precious metals recovery program and IHS personal property accountability and control systems; (12) provides guidance and serves as principal administrative authority on Federal personal property management laws, regulations, policies, procedures, practices, and standards, in conjunction with the OGC; (13) conducts surveys and studies involving evaluation and analysis of the personal property management activities IHS-wide; (14) maintains liaison with the HHS and the General Services Administration (GSA) on personal property management issues and programs affecting the 11–IS; (15) plans, develops and administers the IHS Fleet Management Program; (16) prepares reports on IHS personal property activities; and (17) administers the local HQ personal property management program to include receiving, tagging, storage and disposal in addition to conducting the annual inventory for all HQ locations.

Division of Administrative Services (DAS) (GALB)

(1) Plans, develops and directs program support and general services programs; (2) provides policy guidance and support in the development, planning, and implementation of administrative functions; (3) serves as liaison with the HHS and the GSA on logistics issues affecting the IHS; (4) monitors, evaluates, and reports on administrative programs and services; (5) provides guidance and oversight to the IHS on the control and safeguard of classified national security information; (6) plans, develops and administers the IHS-wide Homeland Security Presidential Directive 12 (HSPD–12) program to include providing leadership on the Physical Access Control Systems, and the Physical Security Program in a collaborative role with the Office of Environmental Health and Engineering; (7) provides special transportation and security; (8) provides leadership and guidance for the IHS Forms Management Program; (9) administers physical security, facility management, space management services, GSA lease management, telecommunication services, parking management, including the employee transit subsidy program, and HSPD–12 badge issuance for HQ; (10) administers the IRS mail and commercial printing programs; (11) provides leadership and coordination in the planning, development, operation, oversight, and evaluation of special office support projects for office relocations, and inter- and intra-agency activities; (12) plans, develops, and administers the IRS policies on supply management in conformance with Federal supply management laws, regulations, policies, procedures, practices, and standards; (13) interprets regulations and provides advice on execution and coordination of supply management policies and programs; (14) administers management systems and methods for planning, utilizing, and reporting on administrative supply management programs, including the IHS supply accountability and controls systems; (15) provides guidance and serves as principal administrative authority on Federal supply management laws, regulations, policies, procedures, practices, and standards, in conjunction with the OGC; (16) conducts surveys and studies involving evaluation and analysis of the supply management activities IHS-wide; (17) maintains liaison with the HHS and the GSA on supply management issues and programs affecting the IRS; (18) prepares reports on IHS supply; and (19) plans, develops, and administers an integrated IRS supply system.

Division of Acquisitions Policy (DAP) (GALC)

(1) Develops, recommends, and oversees the implementation of policies, procedures and delegations of authority for the acquisition management activities in the IRS, consistent with applicable regulations, directives, and guidance from higher echelons in the HHS and Federal oversight agencies; (2) advises the Director, OMS, of proposed legislation, regulations, and directives that affect contracts in the IHS; (3) provides leadership for compliance reviews of all IHS acquisition operations; (4) oversees completion of necessary corrective actions; (5) manages for the Agency, the HHS acquisition training and certification program; (6) supports and maintains the IHS Contract Information System and controls entry of data into the HHS Contract Information System; (7) serves as the IHS contact point for contract protests and the HHS contact for contract-related issues; (8) reviews and makes recommendations for approval/disapproval of contract-related documents such as: Pre- and post-award documents, unauthorized commitments, procurement planning documents, Justification for Other Than Full and Open Competition waivers, deviations, and determinations and findings that require action by the Agency Head of the Contracting Activity, or the Office of the Secretary; (9) processes unsolicited proposals for the IHS; (10) coordinates the IHS Small Business programs; and (11) oversees compliance with the Buy Indian Act.

Division of Grants Management (DGM) (GALD)

(1) Directs grants management and operations for the IHS; (2) awards and administers grants and cooperative agreements for IHS financial assistance programs; (3) provides assistance for the resolution of audit findings for grant programs; (4) manages for the Agency, the HHS grants training and certification program; (5) continuously assesses grants operations; (6) oversees completion of necessary corrective action plans; (7) reviews and makes recommendations for improvements in grantee and potential grantee

management systems; (8) serves as the IHS liaison with the HHS and the public for grants and other financial assistance programs within the IHS; (9) maintains the Catalog of Federal Domestic Assistance for IHS financial assistance programs; (10) conducts grants-related training for IHS staff, grantees, and potential grantees; (11) coordinates payment to grantees, including scholarship recipients; and (12) establishes and maintains the IHS automated Grants Information System and controls data entry into the HHS automated Grants Information System.

Division of Regulatory Affairs (GALE)

(1) Manages the IHS' overall regulations program and responsibilities, including determining the need for and developing plans for changes in regulations, developing or assuring the development of needed regulations, and maintaining the various regulatory planning processes; (2) serves as IHS liaison with the Office of the Federal Register on matters relating to the submission and clearance of documents for publication in the **Federal Register**; (3) assures proper Agency clearance and processing of **Federal Register** documents; (4) informs management and program officials of regulatory activities of other Federal agencies; (5) manages the IHS review of non-IHS regulatory documents that impact the delivery of health services to Indians including but not limited to access and civil rights aspects and State Medicaid waiver applications by coordinating with the OGC Public Health Division; (6) advises the IHS Director and serves as liaison with the OGC on such matters as litigation, regulations, related policy issues, and administrative support issues; (7) determines the need for and obtains legal clearance of IRS directives and other issuances; (8) coordinates legal issues with the OGC, IHS, HHS components, and other Federal agencies, including the identification and formulation of legal questions and advising on the implementation of OGC opinions; (9) assures that IHS' appeals processes meet legal standards; (10) advises on and participates in Indian Self-Determination and Education Assistance Act appeals and hearings; (11) advises on the administration of the contract health services (CHS) appeals system and is a participant in the IRS Director's CHS appeal decisions; (12) manages the retrieval and transmittal of information in response to requests received under the Freedom of Information Act (FOIA), Privacy Act, the Health Insurance Portability and Accountability Act (HIPAA) Privacy and the Health Information Technology for Economic and Clinical Health (HITECH) Act, in collaboration with the Public Affairs Staff; (13) ensures the security of sensitive and/or confidential information when responding to FOIA, Privacy Act, HIPAA Privacy, and HITECH Act issues; (14) advises the IHS Director regarding requests for IHS employees to serve as expert witnesses when IRS is not a party to the suit; (15) provides leadership and guidance for the IHS Records Management Program; (16) develops and recommends policies and procedures for the protection and disposition of JETS records and oversees the evaluation of records management activities in the IRS; (17) develops and implements a management control system for evaluation of records management functions IHS-wide; (18) maintains and updates various regulatory agendas; (19) manages, administers, implements and monitors the IRS's Paperwork Reduction Act and Office of Management and Budget (OMB) information collection/activities; (20) provides guidance and technical assistance to JETS regarding information collection requirements and procedures for obtaining OMB approvals and extensions for IHS information collections; (21) coordinates the implementation and the application of Privacy Act, HIPAA Privacy, and HITECH Act requirements, including but not limited to HIPAA and HITECH Act compliance; (22) maintains and distributes the Compendium of Legal Opinions; (23) reviews IHS directives and other issuances for needed legal clearances; (24) advises on the impact on IHS and the Indian community of State and Federal health reforms; and (25) provides policy review and advice on the need for or application of legal opinions.

Section GA–40, Indian Health Service—Delegations of Authority

All delegations of authority and re-delegations of authority made to IHS officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization shall be effective on 11/01/2014.

Dated: October 24, 2014.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2014–26221 Filed 11–4–14; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; 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 Center for Complementary and Alternative Medicine Special Emphasis Panel; P50 Botanical Centers.

Date: December 17–18, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Martina Schmidt, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Complementary & Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: October 30, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26203 Filed 11–4–14; 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 Member Conflict: Radiation Therapy and Biology.

Date: November 20, 2014.

Time: 2:00 p.m. to 3:00 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: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel—Vascular and Hematology.

Date: November 20, 2014.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0952, *espinozala@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Immunology and Pathogenesis Study Section.

Date: November 21, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@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: October 29, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26209 Filed 11–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Low-Dose CT Imaging (U01) (2015/05).

Date: February 6, 2015.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John K. Hayes, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Suite 959, Bethesda, MD 20892, 301–451–3398, *hayesj@mail.nih.gov*.

Dated: October 29, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26207 Filed 11–4–14; 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; Member Conflict: Social Science and Population Studies.

Date: November 10, 2014.

Time: 1:00 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: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Radiation Therapy and Biology.

Date: November 13–14, 2014.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Drug Discovery and Mechanisms of Antimicrobial Resistance.

Date: November 14, 2014.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: John C. Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: October 29, 2014.

David Clary,

Program Analyst, Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26201 Filed 11–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, November 19, 2014, 12:00 p.m. to November 19, 2014, 6:00 p.m., Hyatt Regency Hotel, 1 Bethesda Metro Center, Bethesda, MD, 20814 which was published in the **Federal Register** on October 06, 2014, 79FR60173.

The meeting notice is being amended to change the meeting date from November 19, 2014 to December 10, 2014. The meeting is closed to the public.

Dated: October 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26206 Filed 11–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; 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 Center for Complementary and Alternative Medicine Special Emphasis Panel; RFA AT–14–006: Center for Advancing Natural Products Innovation and Technology (U41).

Date: December 19, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Martina Schmidt, Ph.D., Scientific Review Officer Office of Scientific Review, National Center for Complementary & Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: October 30, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26202 Filed 11–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, November 20, 2014, 8:00 a.m. to November 20, 2014, 5:00 p.m., Hyatt Regency Hotel, 1 Bethesda Metro Center, Bethesda, MD, 20814 which was published in the **Federal Register** on October 6, 2014, 79 FR 60173.

The meeting notice is being amended to change the meeting date from November 20, 2014 to December 11, 2014. The meeting is closed to the public.

Dated: October 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26205 Filed 11–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Targeting Co-dependent Molecular Pathways in Oral Cancer (U01) Applications Review Panel.

Date: December 9, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton, Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Victor Henriquez, Ph.D., Scientific Review Officer, DEA/SRB/NIDCR, 6701 Democracy Blvd., Room 668, Bethesda, MD 20892–4878, 301–451–2405, *henriquv@nidcr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: October 29, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26208 Filed 11–4–14; 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, NCI Program Project Meeting II.

Date: January 27–28, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Majed M. Hamawy, Ph.D., MBA, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W120, Bethesda, MD 20892–9750, 240–276–6457, *mh101v@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI Program Project Meeting III (P01).

Date: January 29–30, 2015,

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Shakeel Ahmad, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W122, Bethesda, MD 20892–9750, 240–276–6349, *ahmads@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI SPORE Review I.

Date: February 3–4, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Caterina Bianco, MD, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W610 Bethesda, MD 20892–9750, 240–276–6459, *bianco@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI SPORE II.

Date: February 3–4, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Wlodek Lopaczynski, MD, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W608, Rockville, MD 20892, 240–276–6458, *lopacw@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee J-Career Development.

Date: February 19, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W640, Rockville, MD 20850 (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, Rockville, MD 20892, 240–276–6468, *ilda.melo@mail.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: October 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–26204 Filed 11–4–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0028]

Assistance to Firefighters Grant Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability of grant application and application deadline.

SUMMARY: This Notice describes the grant application process and the criteria for awarding grants in the fiscal year (FY) 2014 Assistance to Firefighters Grant Program (AFG) Program and announces the grant application deadline. It explains the differences, if any, between these guidelines and those recommended by representatives of the Nation's fire service leadership during the annual Criteria Development meeting, which was held January 8–9, 2014. The application period for the FY 2014 AFG Program year will be held November 3, 2014 through December 5, 2014, and will be announced on the AFG Web site (*www.fema.gov/firegrants*), *www.grants.gov,* and U.S. Fire Administration Web site (*www.usfa.fema.gov*).

The AFG Program makes grants directly to fire departments, nonaffiliated emergency medical services (EMS) organizations, and state fire training academies for the purpose of enhancing the abilities of first responders to protect the health and safety of the public as well as that of first-responder personnel facing fire and fire-related hazards. It is anticipated that approximately 10,000 to 15,000 applications will be submitted electronically, using the online application submission form and process available at *https://portal.fema.gov.* Before the application period, the ''FY 2014 AFG Funding Opportunity Announcement'' will be published on the AFG Web site (*www.fema.gov/firegrants*). Additional information to assist applicants will be provided on the AFG Web site, including a list of Frequently Asked Questions (FAQ), a ''Get Ready Guide,'' and a ''Quick Reference Guide.'' In addition, the authorizing statute requires that a minimum of 10 percent of available funds be expended for fire prevention and safety grants to be made directly to local fire departments and to local, regional, State, or national entities recognized for their expertise in the fields of fire prevention and firefighter safety research and development.

Authority: 15 U.S.C. 2229.

DATES: Grant applications for the Assistance to Firefighters Grants will be accepted electronically at *https://portal.fema.gov,* from November 3, 2014, beginning at 8 a.m. Eastern Time, and will conclude on December 5, 2014, at 5 p.m. Eastern Time.

ADDRESSES: Assistance to Firefighters Grants Branch, DHS/FEMA, 800 K Street NW., MS 3620, Washington, DC 20472–3620.

FOR FURTHER INFORMATION CONTACT: Catherine Patterson, Branch Chief, Assistance to Firefighters Grant Branch, 1–866–274–0960.

SUPPLEMENTARY INFORMATION: The purpose of the AFG Program is to provide grants directly to fire departments, nonaffiliated emergency medical services (EMS) organizations, and State Fire Training Academies (SFTAs) to enhance their ability to protect the health and safety of the public, as well as that of first-responder

personnel, with respect to fire and fire-related hazards. The authorizing statute requires that each year DHS publish in the **Federal Register** the guidelines that describe the application process and the criteria for grant awards.

Specific information about the submission of grant applications can be found in the ''FY 2014 Assistance to Firefighters Grant (AFG) Funding Opportunity Announcement,'' which is available for download at *www.fema.gov/firegrants* under Docket ID FEMA–2014–0028.

Paper applications will not be accepted due to the inherent delays with processing them and because they lack the applicant ''help'' features that are built into the electronic application.

Appropriations

Congress appropriated $340,000,000 for the FY 2014 AFG pursuant to the Department of Homeland Security Appropriations Act, 2014, Public Law 113–6. From this amount, $304,503,764 will be made available for AFG awards. Funds appropriated for the FY 2014 AFG will be available for obligation and award until September 30, 2015.

From the approximately 10,000 to 15,000 applications that will be submitted to request assistance, FEMA anticipates that it will be able to award approximately 3,000 grants with the grant funding available.

Congress directed the Department of Homeland Security (DHS) to administer the appropriations with the following requirements:

- Career (fire department): Not less than 25 percent of available grant funds.
- Volunteer (fire department): Not less than 25 percent of available grant funds.
- Combination (fire department) and departments using paid-on-call firefighting personnel—not less than 25 percent of available grant funds.
- Open Competition: Career, volunteer, and combination fire departments and fire departments using paid-on-call firefighting personnel—not less than 10 percent of available grant funds awarded.
- Emergency Medical Services Providers: Fire departments and nonaffiliated EMS organizations; not less than 3.5 percent of available grants funds awarded, with nonaffiliated EMS providers receiving no more than 2 percent of the total available grant funds.
- State Fire Training Academies (SFTAs): No more than 3 percent of available grant funds shall be collectively awarded to state fire training academy applicants, with a maximum of $500,000 to be awarded per applicant.
- Vehicles: Not more than 25 percent of available grant funds may be used for the purchase of vehicles; 10 percent of the total vehicle funds will be dedicated to fund ambulances. The allocation of funding will be distributed as equally as possible among urban, suburban, and rural community applicants. The remaining Vehicle Acquisition funds will be awarded competitively without regard to community classification.
- Micro Grants: This is a voluntary funding limitation choice made by the applicant for requests submitted for Operations and Safety Grant Component Program; it is not an additional funding opportunity. Micro Grants are awards that have a federal participation (share) that does not exceed $25,000. Only fire departments and nonaffiliated EMS organizations are eligible to choose Micro Grants, and the only eligible Micro Grants activities are Training, Equipment, PPE, and Wellness and Fitness. Applicants that select Micro Grants as a funding opportunity *may* receive additional consideration for award. If an applicant selects Micro Grants in their application, they will be limited in the total amount of funding their organization can be awarded; if they are requesting funding in excess of $25,000 federal participation, they should not select Micro Grants.

Background of the AFG Program

DHS awards the grants on a competitive basis to the applicants that best address the AFG Program's priorities and provide the most compelling justification. Applications that best address the Program's priorities will be reviewed by a panel composed of fire service personnel.

Award Criteria

All applications for grants will be prepared and submitted through the AFG e-Grant application portal (*https://portal.fema.gov*). DHS again will have a separate application period devoted solely to the Fire Prevention and Safety (FP&S) Grants, which is projected to occur not earlier than February 2015.

DHS awards the grants on a competitive basis to the applicants that best address the AFG Program's priorities and provide the most compelling justification. Applications that best address the Program's priorities will be reviewed by a panel composed of fire service personnel. The panels will review the applications and score them using the following criteria areas:

- Proposed project and the project budget
- Cost benefits
- Financial need
- The extent to which the grant would enhance daily operations
- Evaluation by the Peer Reviewers relative to the critical infrastructure the applicant protects
- For joint/regional host applications only, a list of all the participating eligible organizations and ineligible benefitting organizations
- Critical infrastructure systems or key resources that, if attacked, would result in catastrophic loss of life or catastrophic economic loss. Critical infrastructure includes the following:
  - Public water
  - Power systems
  - Major business centers
  - Chemical facilities
  - Nuclear power plants
  - Major rail and highway bridges
  - Petroleum and/or natural gas transmission pipelines
  - Storage facilities (e.g., chemical storage)
  - Telecommunications facilities
  - Facilities that support large public gatherings, such as sporting events or concerts

Eligible Applicants

The following organizations are eligible to apply for and receive an AFG award of direct financial assistance:

- Fire departments and nonaffiliated EMS organizations operating in any of the 50 states plus the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or any federally recognized Indian tribe or authorized tribal organization, or an Alaskan native village, Alaska Regional Native Corporation, or the Alaska Village Initiatives. Nonaffiliated EMS organizations are defined by 15 U.S.C. 2229(a)(7).
- Any State Fire Training Academy operating in any of the 50 states plus the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of Puerto Rico. For the purposes of the Assistance to Firefighters Grant program, a State Fire Training Academy (SFTA) is defined as the primary State Fire Training Academy, agency, or institution for each state. It provides entity-wide delivery of fire training (and emergency medical services training if applicable) as specified by legislative authorization, by general statutory authorization or charter, or is ad-hoc in nature with the

general acceptance of the fire service. The State Fire Training Academy shall receive state funding for its program in total or part. It shall also have the delivery of fire training programs as the primary function of the agency or institution as demonstrated by the employment of instructional staff and the conducting of ''direct contact'' programs in training and education for fire service personnel of the entire state. A listing of eligible State Fire Training Academy organizations and institutions can be found at the U.S. Fire Administration's Web site (*http://www.usfa.fema.gov/pocs/*).

Ineligibility

• FEMA considers two or more separate fire departments or nonaffiliated EMS organizations sharing facilities as being one organization. If two or more organizations share facilities, and each organization submits an application in the same program area, FEMA may deem all of those program area applications to be ineligible to avoid any duplication of benefits.

• Fire-based EMS organizations are not eligible to apply as nonaffiliated EMS organizations. Fire-based EMS training and equipment must be requested by a fire department under the AFG component program Operations and Safety.

Statutory Limits to Funding

Congress has enacted statutory limits to the amount of funding that a grantee may receive from the AFG Program in any single fiscal year (15 U.S.C. 2229(c)(2)) based on the population served. Awards will be limited based on the size of the population protected by the applicant, as indicated below. Notwithstanding the annual limits stated below, the FEMA Administrator may not award a grant in an amount that exceeds one percent of the available grants funds in such fiscal year, except where it is determined that such recipient has an extraordinary need for a grant in an amount that exceeds the one percent aggregate limit.

• In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of available grant funds awarded to such recipient shall not exceed $1 million in any fiscal year.

• In the case of a recipient that serves a jurisdiction with more than 100,000 people but not more than 500,000 people, the amount of available grant funds awarded to such recipient shall not exceed $2 million in any fiscal year.

• In the case of a recipient that serves a jurisdiction with more than 500,000 but not more than 1 million people, the amount of available grant funds awarded to such recipient shall not exceed $3 million in any fiscal year.

• In the case of a recipient that serves a jurisdiction with more than 1 million people but not more than 2,500,000 people, the amount of available grant funds awarded to such recipient shall not exceed $6 million for any fiscal year, but is subject to the one percent aggregate cap of $3,400,000 for FY 2014.

• In the case of a recipient that serves a jurisdiction with more than 2,500,000 people, the amount of available grant funds awarded to such recipient shall not exceed $9 million in any fiscal year, but is subject to the one percent aggregate cap of $3,400,000 for FY 2014.

• FEMA may not waive the caps on the maximum amount of available grant funds awarded based upon population.

The cumulative total of the federal share of awards in Operations and Safety and Vehicle Acquisition will be considered when assessing award amounts and any limitations thereto. Applicants may request funding up to the statutory limit on each of their applications.

For example, an applicant that serves a jurisdiction with more than 100,000 people but not more than 500,000 people may request up to $2 million on their Operations and Safety Application and up to $2 million on their Vehicle Acquisition Request. However, should both grants be awarded, the applicant would have to choose which award to accept if the cumulative value of both applications exceeds the statutory limits.

Applications for Joint/Regional Projects will not be included in the host organization's funding limitations detailed above. However, Joint/Regional applicants will be subject to their own limitation based on the total population the joint/regional project will serve. For example, a Joint/Regional Project serving a cumulative population with more than 100,000 people but not more than 500,000 people will be limited to $2 million.

Cost Sharing and Maintenance of Effort

Grantees must share in the costs of the projects funded under this grant program as required by 15 U.S.C. 2229(k)(1) and in accordance with applicable Federal regulations governing grants in effect at the time a grant is awarded to a grantee, but they are not required to have the cost-share at the time of application nor at the time of award. However, before a grant is awarded, FEMA will contact potential awardees to determine whether the grantee has the funding in hand or if the grantee has a viable plan to obtain the funding necessary to fulfill the cost-sharing requirement.

In general, an eligible applicant seeking a grant shall agree to make available non-Federal funds equal to not less than 15 percent of the grant awarded. However, the cost share will vary as follows based on the size of the population served by the organization:

• Applicants serving areas with populations above 20,000 but not more than 1 million shall agree to make available non-Federal funds equal to not less than 10 percent of the total project cost.

• Applicants that serve populations of 20,000 or less must match the Federal grant funds with an amount of non-Federal funds equal to 5 percent of the total project cost.

The cost share of State fire training academies and joint/regional projects will be based on the entire State or region, not the population of the host organization.

On a case by case basis, the AFG may allow grantees that already own assets (equipment or vehicles) to use the trade-in allowance/credit value of those assets as ''cash'' for the purpose of meeting the cost-share obligation of their AFG award. In-kind cost-share matches are not allowed.

Grantees under this grant program must also agree to a maintenance of effort requirement as required by 15 U.S.C. 2229(k)(3) (referred to as a ''maintenance of expenditure'' requirement in that statute). A grantee shall agree to maintain during the term of the grant the applicant's aggregate expenditures relating to the activities allowable under the Funding Opportunity Announcement at not less than 80 percent (80%) of the average amount of such expenditures in the two (2) fiscal years preceding the fiscal year in which the grant amounts are received.

In cases of demonstrated economic hardship, and on the application of the grantee, the Administrator of FEMA may waive or reduce a grantee's cost share requirement or maintenance of expenditure requirement. As required by statute, the Administrator of FEMA has established guidelines for determining what constitutes economic hardship and published these guidelines at FEMA's Web site (*www.fema.gov/grants*).

Prior to the start of the FY 2014 AFG application period, DHS will conduct applicant workshops and/or Internet webinars to inform potential applicants about the AFG Program. In addition, DHS will provide applicants with online information at the AFG Web site (*www.fema.gov/firegrants*) to help them

prepare quality grant applications. The AFG also will staff a Help Desk throughout the application period to assist applicants with navigation through the automated application as well as assistance with any questions they have. Applicants can reach the AFG Help Desk through a toll-free telephone number (1–866–274–0960) or electronic mail (*firegrants@dhs.gov*).

Application Process

Organizations may submit one application per application period in each of the three AFG Program areas, e.g., one application for Operations and Safety, one for Vehicle Acquisition, and/or a separate application to be a Joint/Regional Project host. If an organization submits more than one application for any single AFG Program area, e.g., two applications for Operations and Safety, two for Vehicles, etc.; either intentionally or unintentionally, FEMA will deem all applications submitted by that organization for the Program to be ineligible for funding.

Applicants will be advised to access the application electronically at *https://portal.fema.gov.* The application also will be accessible from the U.S. Fire Administration's Web site (*http://www.usfa.fema.gov*) and the grants.gov Web site (*http://www.grants.gov*). New applicants will be required to register and establish a username and password for secure access to their application. Applicants that applied to any previous AFG funding opportunities will be required to use their previously established usernames and passwords.

In completing the application, applicants will be asked to provide relevant information on their organization's characteristics, call volume, and existing capabilities. Applicants will be asked to answer questions about their grant request that reflect the AFG funding priorities, which are described below. In addition, each applicant will have to complete four separate narratives for each project or grant activity requested. These narratives will address statutory competitive factors: Project description and budget, cost benefit, financial need, extent to which the grant will benefit the organization's daily operations, and additional information. The electronic application process will permit the applicant to enter and save the application data. The system does not permit the submission of incomplete applications. Except for the narrative textboxes, the application will use a ''point-and-click'' selection process or require the entry of data (e.g., name and address, call volume numbers, etc.). Applicants will be encouraged to read the ''AFG Funding Opportunity Announcement'' for more details.

National Fire Protection Association (NFPA) Standards

Courtesy of the NFPA (and at no cost during the AFG application period), relevant standards that should be referenced in your applications may be viewed at *http://www.nfpa.org/codes-and-standards/free-access.*

Criteria Development Process

Each year, DHS convenes a panel of fire service professionals, or subject matter experts (SMEs) to develop the funding priorities and other implementation criteria for AFG. The Criteria Development Panel is comprised of representatives from nine major fire service organizations, who are charged with making recommendations to FEMA regarding the creation of new funding priorities and the modification of existing funding priorities as well as developing criteria for awarding grants. The nine major fire service organizations represented on the panel are:

- Congressional Fire Services Institute (CFSI)
- International Association of Arson Investigators (IAAI)
- International Association of Fire Chiefs (IAFC)
- International Association of Fire Fighters (IAFF)
- International Society of Fire Service Instructors (ISFSI)
- National Association of State Fire Marshals (NASFM)
- National Fire Protection Association (NFPA)
- National Volunteer Fire Council (NVFC)
- North American Fire Training Directors (NAFTD)

The FY 2014 criteria development panel meeting occurred January 8–9, 2014. The content of the ''FY 2014 AFG Funding Opportunity Announcement'' reflects the implementation of the Criteria Development Panel's recommendations with respect to the priorities, direction, and criteria for awards. All of the funding priorities for the FY 2014 AFG are designed to address the following:

- Protecting the public
- First responder safety
- Enhancing national capabilities
- Risk
- Interoperability

Changes for FY 2014

- *FY 2014 AFG Funding Opportunity Announcement.*

Operations and Safety Program

(1) Requests for Ballistic Protective Equipment (BPE) are now eligible as a new mission. A set of BPE will be comprised of one vest, one helmet, one triage bag, and one pair of goggles. Fire and EMS personnel should be properly trained and qualified in the use of the ballistic protection equipment and active shooter/mass casualty incident tactics and procedures. Interagency training and exercises are highly encouraged and should be fully explained as part of the applicant's narrative, if applicable.

(2) In FY 2013, the Assistance to Firefighters Grant Program introduced as an option within the AFG application of requesting a micro grant, which is an AFG award for which the federal share does not exceed $25,000. Only fire departments and nonaffiliated EMS organizations are eligible to choose Micro Grants, and the only activities that are eligible are Training, Equipment, PPE, and Wellness and Fitness. Micro Grants are not an additional funding opportunity, but Micro Grant applicants may receive additional consideration for an award. Micro Grant activities will be limited to those activities identified within the FOA as ''Priority 1'' or ''High Priority'' only. Overmatching of local funds by the applicant will not be permitted for Micro Grant applications.

(3) All simulators, as well as mobile or fixed fire/evolution props, (e.g. burn trailers, forcible entry, rescue/smoke maze) and Tow Vehicles have been moved from the Training activity to the Equipment Activity.

(4) Mobile computers, to include tablets (for use on scene/in the field) and mobile repeaters shall have the highest funding priority. Fixed repeaters and ''backup'' or secondary, communications systems will not be eligible in FY 2014.

(5) Mechanical Cardiopulmonary resuscitation (CPR) Compression Devices are eligible and will be a high funding priority.

Vehicle Acquisition Program

(1) Only new custom, stock, or demonstration vehicles are eligible for reimbursement under the AFG Vehicle Acquisition program. Refurbishment of vehicles is not eligible in FY2014.

Regional Grant Program

(1) Two or more eligible entities may submit an application under the name of a single participating organization (the ''host'') to fund a regional program or initiative (acquisition activities are limited to shared Training, Equipment, PPE, and Vehicle Acquisition).

(2) A Regional Applicant (the host organization) is not prevented from also submitting applications on behalf of their own organization for any or all remaining AFG Component Programs (Vehicle Acquisition and/or Operations and Safety); however, duplicative acquisition requests for the same activities, submitted both as a singular applicant and Regional applicant, are not allowed.

System for Award Management (SAM)

In 2012, *SAM.gov* replaced the Central Contractor Registry (CCR). Per 2 CFR 25.200, all grant applicants and awardees are required to register in *SAM.gov,* which is available free of charge. They must maintain validated information in SAM that is consistent with the data provided in their AFG grant application and in the DUNS database. AFG will not accept any application, process any awards, or consider any payment or amendment requests, or consider any amendment until the applicant or grantee has complied with the requirements to provide a valid DUNS number and an active SAM registration with current information. The banking information, employer identification number (EIN), organization/entity name, address, and DUNS number provided in the application must match the information that provided in *SAM.gov.*

Revised Environmental and Historical Review Screening Form

FEMA's Environmental and Historic Preservation (EHP) Screening Form was revised and made available for download from the AFG application portal. AFG-funded projects that involve the installation of equipment (including but not limited to antennas, sprinklers, alarm systems, generators, vehicle exhaust systems, air improvement systems, permanent mounted signs, or renovations to facilities) are subject to FEMA's EHP screening process. Additional details are included in the ''AFG Funding Opportunity Announcement''.

National Fire Incident Reporting System (NFIRS)

Although NFIRS reporting is strongly encouraged, NFIRS reporting is not a requirement to apply for or be awarded a grant within any AFG component program. However, any fire-based organization(s) that receives an AFG award must begin reporting to NFIRS prior to the beginning of their period of performance. Any grantee that stops reporting to NFIRS during their grant's period of performance is subject to having their award(s) modified or withdrawn.

Changes to Criteria Development Panel Recommendations

DHS must explain any differences between the published guidelines and the recommendations made by the criteria development panel and publish this information in the **Federal Register** prior to making any grants under the Program. For FY 2014, DHS accepted and is implementing all of the Criteria Development Panel's recommendations.

Application Review Process and Considerations

The authorizing statute requires that each year DHS publish in the **Federal Register** a description of the grant application process and the criteria for grant awards. This information is provided below.

DHS will review and evaluate all AFG applications submitted using the funding priorities and evaluation criteria described in this document, which are based on recommendations from the AFG Criteria Development Panel. FEMA will rank all submitted applications based on how well they match the funding priorities for the type of community served. Answers to the application's activity-specific questions provide information used to determine each application's ranking relative to the stated priorities.

Preliminary Review Process

DHS will evaluate all applications received first through an automated preliminary review process to determine which projects best address the AFG Program's announced funding priorities. The automated preliminary review will evaluate and score the applicants' answers to the activity-specific questions in terms of the funding priorities and the evaluation criteria described in this document.

The projects that best meet the AFG Program priorities as determined by the preliminary review will be deemed to be in the ''competitive range'' and will be forwarded for the second level of application review, which is the peer review process. Once the competitive range is established, DHS will review the list of applicants that were not included in the competitive range to determine if any are responsible for protecting DHS-specified critical infrastructure or key resources.

Peer Review Process

All projects that are deemed to be in the competitive range after the preliminary review process will be subjected to a second level of review by a technical evaluation panels (TEP) of peer reviewers. The TEPS are made up of individuals from the fire service, including, but not limited to, firefighters, fire marshals, and fire training instructors.

A panel of at least three peer reviewers will evaluate each project in the competitive range using the project narratives, along with answers to the general questions and the activity-specific questions. Panelists will provide a subjective but qualitative judgment on the merits of each request. They will review and score projects based on the following evaluation criteria:

- The proposed project description and budget
- Financial need
- Cost benefits
- The extent to which the grant would enhance daily operations
- How the grant will positively impact the regional ability to protect life and property
- For joint/regional host applications, the list of all the participating eligible and ineligible benefitting organizations
- Evaluation by the peer reviewers relative to the critical infrastructure the applicant protects within its first-due area of response
- Critical infrastructure includes systems or key resources that, if attacked, would result in catastrophic loss of life or catastrophic economic loss. Examples include the following:
  - Public water
  - Power systems
  - Major business centers
  - Chemical facilities
  - Nuclear power plants
  - Major rail and highway bridges
  - Petroleum and/or natural gas transmission pipelines
  - Storage facilities (such as chemicals)
  - Telecommunications facilities
  - Facilities that support large public gatherings, such as sporting events or concerts
- Additional information provided by the applicant

Each project will be judged on its own merits and not compared to other projects. As part of the cost-benefit review, the panelists will consider all expenses budgeted, including the individual costs of the items requested as well as the extraneous costs, such as warranties or maintenance costs, administrative costs, and/or indirect costs. Panelists may object to costs that are requested but not fully explained in the application.

The panelists will evaluate and score each project individually and then

discuss the merits and shortcomings of each application in an effort to reconcile any major discrepancies. However, a consensus among reviewers on the scores is not required. The project's total peer review score will be an average of the individual peer reviewers' scores. The projects receiving the highest scores during the peer review process will be deemed in the fundable range.

The total peer review score will be combined with the score earned from the preliminary review, with each score representing 50 percent of the total project score. Projects will be ranked according to the total project scores with DHS considering the highest-scoring projects for awards.

Technical Review Process

Projects receiving the highest scores then will undergo a technical review by a subject matter specialist to assess the technical feasibility of the project and a programmatic review to assess eligibility and other factors.

DHS generally makes funding decisions using rank order resulting from the panel evaluation. However, DHS may deviate from rank order and make funding decisions based on the type of department (career, combination, or volunteer) and/or the size and character of the community the applicant serves (urban, suburban, or rural) to the extent it is required to satisfy statutory provisions.

After the completion of the technical reviews, DHS will select a sufficient number of awardees from this application period to obligate all of the available grant funding. It will evaluate and act on applications within 90 days following the close of the application period. Award announcements will be made on a rolling basis until all available grant funds have been committed. Awards will not be made in any specified order, i.e., awards will not be made by State, program, etc. DHS will notify unsuccessful applicants as soon as it is feasible.

State Strategy and Communications Technical Review

Each state will provide a SMS to the AFG Program Office to conduct a Technical Review of Peer reviewed applications from the state's perspective. This state review will focus on requests for CBRNE requested equipment and training. This state review will focus on requests for communications systems equipment and related training that should conform to the state's Statewide Communication Interoperability Plan (SCIP).

Funding Priorities

The funding priorities described in this Notice have been recommended by a panel of representatives from the Nation's fire service leadership and have been accepted by DHS for the purposes of implementing the AFG. These rating criteria provide an understanding of the AFG Program's priorities and the expected cost-effectiveness of any proposed project(s). The activities listed below are in no particular order of priority.

(1) Operations and Safety Funding Priorities

(i) Training Activities

• *Priorities for Fire Departments and Joint/Regional Hosts.* Due to inherent differences among urban, suburban, and rural firefighting needs, AFG has different priorities for Training for fire departments and joint/regional applicants that serve different types of communities, *e.g.,* urban, suburban, or rural. These are described below and in the ''FY 2014 AFG Funding Opportunity Announcement.''

Fire Department and Joint/Regional Training Priorities				
Training	**NFPA No.**	**Urban**	**Suburban**	**Rural**
NFPA 1001 (firefighter I, II)	1001	H	H	H
NFPA (instructor)	1041	H	H	H
NFPA 472 (Hazmat operations)	472	H	H	H
NFPA 1581 (infection control)	1581	H	H	H
Confined space (awareness)	1670	H	H	H
Wildland firefighting (basic)	1143	H	H	H
Wildland firefighting certification (red card)	1051/1143	H	H	H
Rapid intervention training	1407	H	H	H
NFPA (officer)	1021	H	H	H
Emergency medical responder	1710	H	H	H
Firefighter safety and survival	1407	H	H	H
Safety officer	1521	H	H	H
Driver/operator	1002	H	H	H
Fire prevention	1/909/913/1035	H	H	H
Fire inspector	1031	H	H	H
Fire investigator	1033	H	H	H
Fire educator	1041	H	H	H
NIMS/ICS	1561	H	H	H
Firefighter physical ability program	1583	H	H	H
Emergency scene rehab	1584	H	H	H
Critical Incident debriefing	1500/1583	H	H	H
Any training to a National/State or NFPA standards		H	H	H
Compliance with federal/state-mandated program		H	H	H
NFPA (rescue technician)	1006/1670	H	H	H
Paramedic		H	H	H
Emergency Medical Technician (EMT)		H	H	H
Vehicle rescue	1670	H	H	H
Other officer	1021	H	H	M
NFPA (ARFF)	1003/402 403/408/409/410/412/414/415	H	H	M
Weapons of Mass Destruction (awareness, other/specialized)	472	H	H	L
Mass casualty		H	H	L
Weapons of Mass Destruction	472	H	H	L

(operations)				
Weapons of Mass Destruction (technician)	472	H	H	L
Hazmat (technician)	472	H	H	L
Training to address a local risk		M	M	M
Maritime Firefighting		M	M	M
Instructor-led training that does not lead to certification		L	L	L
Self-taught courses		L	L	L
Training not elevated to a national or state standard		L	L	L
Training that addresses a specific operational capability		L	L	L

Additional Considerations. Factors such as whether multiple departments will be trained, instructor-led vs. media-led training, and the number of firefighters to be trained. Large departments with a high number of active firefighters also will receive additional consideration.

• *Priorities for Nonaffiliated EMS Organizations.* Since training is a prerequisite to the effective use of EMS equipment, FEMA has determined that it is more cost-effective to enhance or expand an existing EMS organization by providing training or equipment than it is to create a new service. Therefore, communities attempting to initiate EMS services will receive the lowest competitive rating.

AFG provides training grants to meet the educational and performance requirements of EMS personnel. Training should align with the U.S. National Highway Traffic Safety Administration (NHTSA), which designs and specifies a National Standard Curriculum for EMT training and the National Registry of Emergency Medical Technicians (NREMT), a private, central certifying entity whose primary purpose is to maintain a national standard (NREMT also provides certification information for paramedics who relocate to another state).

Higher priorities for training are shown below. They are based on the time and cost of upgrading a nonaffiliated EMS organization's response level.

(1) Organizations seeking to elevate the response level from EMT Advanced (EMT–I) to Paramedic (EMT–P);

(2) Organizations seeking to elevate the response level from EMT (EMT–B) to EMT Advanced (EMT–I); and

(3) Organizations seeking to train a high percentage of the active EMR's will receive additional consideration when applying under the Training Activity.

Lower training priorities due to the time and cost of upgrading an organization's response level are

(1) Organizations seeking to upgrade from Emergency Medical Responder (First Responder) to EMT (EMT–B); and

(2) Organizations seeking to upgrade from EMT (EMT–B) to Paramedic (EMT–P).

(3) The lowest priority for EMS training is to fund Emergency Medical Responder (First Responders).

(4) Organizations seeking training in rescue or Hazmat operations will receive lower consideration than organizations seeking training for medical services.

(ii.) Equipment Acquisition

• *Fire Departments, Joint/Regional Hosts, SFTAs, and Nonaffiliated EMS Organizations.* Grants are available for equipment to enhance the safety and effectiveness of firefighting, rescue, and fire-based and nonaffiliated EMS emergency medical functions. Equipment requested must meet all mandatory requirements, as well as any voluntary consensus standards or national and/or state or DHS-Adopted Standards. The equipment requested should improve the health and safety of firefighters and protect the public.

Priority Equipment Types

(1) Priority 1—Basic, communications, EMS/rescue. The only eligible AFG acquisition activity for interoperable communications equipment is the purchase of P25-compliant equipment. Grantees purchasing P25 equipment must obtain documented evidence from the manufacturer that the equipment has been tested and passed the entire applicable, published, normative P25 Compliance assessment test procedures for performance, conformance, and Equipment requested, particularly decontamination and interoperability.

(2) Priority 2—Hazmat, Specialized. Hazmat equipment will only be funded to the current level of an organization's operational capabilities.

(3) Priority 3—Investigations, CBRNE.

Additional Considerations for Equipment: Fire Departments, Joint/Regional Hosts, and SFTAs. Additional consideration may be given to equipment requests based on the following factors:

• Equipment that has a direct effect on firefighters' health and safety.

• Age of equipment that will be considered for replacement has changed from 10 to 15 years.

• Equipment that benefits other jurisdictions.

• Equipment that brings the department into compliance with a national recommended standard, (*e.g.,* NFPA) or statutory compliance (*e.g.,* Occupational Safety & Health Administration (OSHA)) will receive the highest additional consideration.

Equipment Request Priorities Fire Departments, Joint/Regional Hosts, and SFTAs	
Priority	**Reason for Request**
H	First-time purchase (never owned by applicant) to support existing mission and/or replace obsolete, broken/inoperable equipment
M	Increased capabilities within the department's existing mission or to meet a new risk
L	Requesting items for a new mission to meet an existing risk and/or request additional supplies or reserve equipment

• *Funding Priorities for Nonaffiliated EMS Organizations.* Nonaffiliated EMS organizations are eligible for Equipment Activities that are not specific or unique to structural/proximity firefighting, such as but not limited to Training, Equipment, Personal Protective Equipment [PPE], Wellness and Fitness, and Modification to Facilities they deem necessary to complete their mission.

• All of the factors in the table below are considerations in prescoring and panelist review.

Additional Considerations for Equipment—Nonaffiliated EMS. All of the following are considerations in prescoring and panelist review of equipment requests from nonaffiliated EMS organizations.

Nonaffiliated EMS Organization Priorities	
Priority	**Reason for Request**
H	Departments requesting to upgrade service from Basic Life Support (BLS) to Advanced Life Support (ALS)
M	Departments requesting to expand current service
L	Departments requesting new service or replacing used or obsolete equipment

Nonaffiliated EMS Organization Levels of Response	
Priority	**EMS Level**
H	Advanced Life Support (ALS)
H	Basic Life Support (BLS)
L	Hazmat operations/technicians
L	Rescue operations/technicians

(iii.) Personal Protective Equipment (PPE) Acquisition

AFG Funds are primarily used to acquire OSHA-required and NFPA-compliant PPE for firefighting and EMS personnel of fire departments, joint/regional hosts, nonaffiliated EMS organizations, and State fire training academies. Equipment requested should have the goal of increasing firefighter safety. When requesting to replace old or obsolete equipment, applicants will be asked to provide the age of the equipment being replaced. In order for SCBA/PPE to be considered obsolete, it must be a minimum of two NFPA cycles or 10 years of age or older.

Information on the relevant NFPA standards can be obtained from the organization's Web site at *http://www.nfpa.org/codes-and-standards/free-access.* If requesting training for any items in this section, please list it in the ''Other'' section under Additional Funding for each item for which training is needed.

• *Funding Priorities for Fire Departments, Joint/Regional Hosts, and SFTAs.* The highest priorities for funding will be requests from departments to buy new PPE for the first time, to replace or update obsolete PPE to the current standard, and to replace torn, tattered, or damaged PPE. (Obsolete is defined as any PPE that is 10 years or older and is outdated by two NFPA cycles.) The medium priority for funding will be requests to replace contaminated PPE or to address a new risk. A low priority for funding will be requests to replace new or used PPE, replace worn but usable PPE that is not compliant to the current edition of the NFPA standard, to meet a new mission, or to increase current inventory. The table below shows the priorities for PPE requests that will be considered during prescoring and peer panelist reviews.

Priorities for PPE Requests from Fire Departments, Joint/Regional Hosts, and SFTA	
Priority	**Reason for PPE Request**
H	• Departments requesting new PPE for the first time • Replacing torn, damaged, or obsolete PPE • In order for PPE to be considered obsolete, it must be a minimum of two NFPA cycles and 10 years of age or older • Personal Safety/Rescue Bailout Systems • Members without gear (Member can't be outfitted from current inventory)
M	• Requesting PPE for a new risk
L	• Worn but usable PPE that is not compliant to the current edition of the NFPA standard, and/or to handle a new mission or increase current inventory • Used PPE • Replacing New PPE • New Mission • Increase Supplies

• *Funding Priorities for Nonaffiliated EMS Organizations.* Nonaffiliated EMS organizations are eligible for PPE activities that are not specific or unique to structural/proximity firefighting, such, as but not limited to, ''NFPA1999: Standard on Protective Clothing for Emergency Medical Operations,'' or ''NFPA 1981: Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services.''

Priorities for PPE Requests From Nonaffiliated EMS Organizations ***Training on Use of Requested Equipment:*** *Applicants must indicate grant-purchased equipment will be operated by sufficiently trained staff. Failure to meet this requirement will result in ineligibility for funding.*	
Priority	**Reason for PPE Request**
H	• Departments requesting new PPE for the first time • Replacing torn, damaged, or obsolete PPE In order for PPE to be considered obsolete, it must be a minimum of two NFPA cycles and 10 years of age or older • Personal Safety/Rescue Bailout Systems • Members without gear (Member can't be outfitted from current inventory)
M	• Requesting PPE for a new risk
L	• Worn but usable PPE that is not compliant to the current edition of the NFPA standard and/or to handle a new mission, or increase current inventory • Replace new PPE • New mission • Increase supply

• *Self-contained Breathing Apparatus (SCBA) Priorities.* Awards for all SCBAs will be based on number of seated riding positions in the department's or organization's vehicle fleet and the age of existing SCBAs, limited to one spare cylinder (unless justified otherwise in the Request Details narrative for the PPE activity). New SCBAs must have automatic-on or integrated Personal Alert Safety System (PASS) devices and be CBRNE-compliant to the current edition of the NFPA 1981 standard. Applicants will be required to provide the age of the PPE being replaced. All requests must be justified in the Request Details narrative for the PPE activity.

Self-Contained Breathing Apparatus (SCBA) Priorities for Requests from Fire Departments, Joint/Regional Hosts, SFTAs, and Nonaffiliated EMS Organizations	
Priority	**Items Requested**
H	Replacing SCBA compliant with NFPA 1981, pre-2002 Edition
M	Replacing SCBA compliant with NFPA 1981, 2007 Edition (must be justified in the PPE Narrative)
L	Replacing SCBA compliant with NFPA 1981, 2012 Edition (must be justified in the PPE Narrative)

Additional Considerations for PPE Requests: Fire Departments, Joint/Regional Hosts/SFTAs

• Obsolete is defined as any SCBA/PPE that is 10 years or older or two NFPA cycles.

• Applicants with the oldest PPE and/or trying to bring the department into 100 percent NFPA compliance, or the number of firefighters who will have compliant gear.

Additional Considerations for PPE Requests: Nonaffiliated EMS Organizations

• Percent of firefighters/EMS personnel served.

• Age of equipment.

• Obsolete equipment—defined as any SCBA/PPE that is 10 years or older, and two NFPA cycles.

(iv.) Wellness and Fitness Activities

Only fire departments and nonaffiliated EMS organizations are eligible to apply for grants for Wellness and Fitness Activities. Wellness and Fitness Activities are intended to strengthen first responders so their mental, physical, and emotional capabilities are resilient to withstand the demands of emergency services response. To be eligible for FY 2014 AFG funding in this activity, fire departments and nonaffiliated EMS organizations must offer, or plan to offer, all four of the following:

(1) Periodic health screenings
(2) Entry physical examinations
(3) Immunizations
(4) Behavioral health programs

• *Funding Priorities.* Applicants must have all four Priority 1 Activities already in place (or request funding for any missing Priority 1 Activities), or they will be unable to request funding for any Priority 2 Activities.

Priority 1: Below are the four activities required to offer a complete Wellness and Fitness Program:

(1) Initial medical exams
(2) Job-related immunization
(3) Annual medical and fitness evaluation
(4) Behavioral health

Priority 2: You may only apply for Priority 2 items if you offer or are requesting a combination of the four activities required under Priority 1. Departments that have some of the Priority 1 programs in place must apply for funds to implement the missing Priority 1 programs before applying for funds for any additional program or equipment. In addition, funded medical exams must meet current NFPA 1582, as required by DHS Standards.

• Simultaneous requests for Priority 1 and Priority 2 activities will receive a lower funding consideration than requests that complete the bundle of the four (4) Priority 1 Activities.

• Candidate physical ability evaluation.

• Formal fitness and injury prevention program/equipment.

• Injury/illness rehabilitation.

• IAFF or IAFC peer fitness trainer program(s).

(v.) Modifications to Facilities

Only fire departments and nonaffiliated EMS organizations are eligible to apply for Modifications to Facilities grants. FY 2014 AFG funding may be used to modify and retrofit existing fire stations and other facilities or structures built before 2003. Eligible projects under this activity must have a direct effect on the health and safety of firefighters. New fire station construction is not eligible for funding. To be eligible, the modification must not change the structure footprint or profile. If requesting multiple items in this activity, total funding for all project and activities cannot exceed $100,000 per fire station.

FEMA is required to consider the effects of its actions on the environment and/or historic properties to ensure that all activities and programs funded by the agency, including grant-funded projects, comply with federal environmental planning and historic preservation (EHP) regulations, laws, and Executive Orders, as applicable.

The Grants Program Directorate/EHP Branch will no longer be conducting EHP reviews on projects that have already been initiated or completed, and such projects that are received for review will be recommended to not be funded, unless the project can be modified to eliminate those parts/elements that have already been completed/initiated.

FEMA Policy 108.024.4 (linked below) provides procedural guidelines for completing environmental reviews as required by the National Environmental Policy Act (NEPA) in cases where Federal Emergency Management Agency funded projects require initiation or action prior to the completion of the environmental review.

Please see FEMA Environmental Planning and Historical Preservation Policy 108.024.4, dated December 18, 2013, at *http://www.fema.gov/media-library-data/1388411752234-6ddb79121951a68e9ba036d2569aa488/18Dec13-NoNEPAReview.pdf.* Grantees must comply with all applicable EHP laws, regulations, and Executive Orders

(EOs) to draw down their FY 2014 AFG funds.

• *Funding Priorities.* Highest priority for funding will be requests to install modifications such as sole/at source capture exhaust systems (SSCES), sprinkler systems, or smoke/fire alarm notification systems in stations, including maritime and air operations facilities, that are occupied 24/7 and offer sleeping quarters. An SSCES is a system where exhaust gases from a vehicle are captured via a conduit that attaches to/over the end of the vehicle's exhaust system at the tailpipe. The captured exhaust gases are expelled through the attached conduit via mechanical/pneumatic means to the exterior of the building. Medium priority will be given to requests for air quality systems and/or emergency generators from departments that may or may not offer sleeping quarters. Low priority will be given to requests to modify facilities that are not occupied 24/7 and do not offer sleeping quarters, and for training facilities.

All of the following information is considered during prescoring and panelist review:

Fire Department and Nonaffiliated EMS Organization Modifications to Facilities Priorities	
Priority	**Requested Items**
H	Departments requesting direct, at-source capture exhaust systems, sprinkler systems, or smoke/fire alarm notification systems for stations with sleeping quarters, including maritime/air operations facilities, that are occupied 24/7
M	Departments with or without sleeping quarters requesting Station Alerting Systems, Air Quality Systems (AQS), and/or emergency generators
L	Departments requesting funding from the high or medium funding priorities list whose facilities are not occupied 24/7 and do not have sleeping quarters; departments requesting funding for training facilities

• *Priorities by Level of Facility Occupancy:*

• Full-time (24/7)

• Daily (part-time or selected coverage; not on a regular basis)

• Occasionally (no schedule coverage; volunteers respond to the station.)

Additional Considerations will be given for the age of the building, with older facilities receiving higher priority. If requesting multiple items in this activity, funding cannot exceed a maximum of $100,000 per station.

(2) Joint/Regional Host Organizations. A Regional application is an opportunity for a fire department or a nonaffiliated EMS organization to act as a ''host'' applicant and apply for large-scale projects on behalf of itself and any number of other participating local AFG-eligible organizations. Eligible Regional Program activities are Vehicle Acquisition and Operations and Safety (but only Training, Equipment, and PPE). Regional Program activities should achieve cost effectiveness, support regional efficiency and resilience, and benefit more than one local jurisdiction (county, parish, town, township, city, or village) directly from the activities implemented with the grant funds.

Host organizations should provide specific details in their application narrative, fully explaining the distribution of any grant-funded acquisitions or grant-funded contracted services between the Host and the partner organizations.

Regional host applicants and participating partner agencies must execute a Memorandum of Understanding (MOU) or equivalent document, signed by all parties participating in the award, prior to submitting an application under the Regional Program activities. The agreement should specify the individual and mutual responsibilities of the participating partners, the participant's level of involvement in the project(s), and the proposed distribution of all grant-funded assets. Successful Regional applicants shall provide a copy of the signed MOU at the time of award. Any entity named in the application as benefiting from the award shall be a party the MOU or equivalent document.

State Fire Training Academies are not eligible to apply under the Regional Program.

(1) Vehicles Acquisition Program

Not more than 25 percent of available grant funds may be used for the purchase of vehicles. Of the 25 percent set aside for vehicle funding, FEMA intends to allocate 10 percent of the total Vehicle funds for ambulances. The allocation of vehicle funding will be distributed as equally as possible among urban, suburban, and rural community applicants. The remaining Vehicle Acquisition funds will be awarded competitively without regard to community classification.

In FY 2014, fire departments, joint/regional hosts, nonaffiliated EMS organizations, and SFTAs may apply for more than one vehicle. Requests cannot exceed the financial cap based on population listed in the application. If a department submits multiple types of applications, and more than one of those requests are approved, the department will be held to the same financial cap based on the population listed in the application.

(i) Compliance With Standards

• New fire apparatus must be compliant with NFPA 1901 or 1906 for the year ordered/manufactured.

• Ambulances, Edition 2013, or GSA Federal Standard KKK–A–1822F.

• Applicants must certify that unsafe vehicles will be permanently removed from service if awarded a grant. Acceptable uses of unsafe vehicles include farm, nursery, scrap metal, salvage, construction, etc.

When requesting more than one vehicle, the applicant will be asked to fill out a separate line item and answer all the questions including a separate Narrative for each vehicle. For example, if requesting to replace three ambulances, the applicant must fill out the age and vehicle identification number (VIN) of each vehicle being replaced. The same VIN cannot be used in each line item.

Applicants may request funding for a driver training program in the Vehicle Acquisition section but must add the request in the Additional Funding area in the Request Details section of the application. Driver training program(s)

must be in place prior to the delivery of the vehicle. Applicants requesting vehicles that do not have drivers/operators trained to NFPA 1002 or equivalent, and are not planning to have a training program in place by the time the vehicle is delivered, will not receive a vehicle award.

(ii) Vehicle Funding Priorities

Inherent differences exist between urban, suburban, and rural firefighting conventions. For this reason, DHS has developed different priorities in Vehicle Acquisition for departments that serve different types of communities. The U.S. Census Bureau's urban—rural classifications are fundamentally a delineation of geographical areas. The FY2014 demographics for determining urban, suburban, and rural are shown in the table below.

Factors	Urban	Suburban	Rural
Population Size	>3,000/sq. mi. or 50,000+ population.	1,000–2,999/sq. mi. or 25,000–50,000 population.	0–999/sq. mi. or <25,000 population.
Water Supply	75–100% hydrants (municipal water).	50–74% hydrants	<50% hydrant.
Land Use	<25% for agriculture (based on zoning) industrial and commercial combined >50%.	25–49% used for agriculture (based on zoning) industrial and commercial combined >25–49%.	50% used for agriculture (based on zoning) industrial and commercial combined <25%.
Number of Stations per square mile.	<3 sq. mi. per station	3–9 sq. mi. per station	>10 sq. mi. per station.
Number of Occupancies	>100	11–100	0–10.

• *Fire Department, Joint/Regional, and SFTA Priorities.* Fire departments, joint/regional applicants, and SFTAs are eligible to request funding for the Vehicle Acquisition activities and funding priorities shown below, but they are not limited to these Vehicle activities. The funding priorities for firefighting vehicles—High (H), Medium (M), or Low (L)—are organized by community type. Within each separate funding priority, the vehicles listed have equal value. The chart below delineates the priorities for firefighting vehicles for each type of community.

Fire Department, and State Fire Training Academy Vehicle Activities include but are not limited to the following Vehicle Priorities:			
Priority	**Urban Communities**	**Suburban Communities**	**Rural Communities**
H	• Pumper • Ambulance • Aerial • Rescue • Non-Transport Nonaffiliated EMS (Healthcare) - Community Paramedic	• Pumper • Ambulance • Aerial • Tanker-Tender • Rescue • Non-Transport Nonaffiliated EMS (Healthcare) - Community Paramedic	• Pumper • Ambulance • Brush-Attack • Tanker-Tender • Aerial • Non-Transport Nonaffiliated EMS (Healthcare) - Community Paramedic
M	• Command • Hazmat • Light/Air unit • Rehab	• Hazmat command • Command • Light/Air unit • Brush-Attack • Rehab unit	• Command • Hazmat • Rescue • Light/Air unit
L	• Aircraft Rescue and Firefighting Vehicle (ARFF) • Brush-Attack • Foam truck • Fire boat • Tanker-Tender • Highway safety unit • Hybrid (Fire/Nonaffiliated EMS)	• ARFF • Foam truck • Highway safety unit • Fire boat • Hybrid (Fire/Nonaffiliated EMS)	• Foam Truck • Highway safety unit • ARFF • Rehab • Fire boat • Hybrid (Fire/Nonaffiliate d EMS)

Eligible Regional Vehicle Activities for Fire Departments and Nonaffiliated EMS organizations are limited to the following Vehicle Priorities for ALL Community Types:	
H	• Aerial • Air/Light • Bariatric Ambulance • Mobile Command • Rehab
M	• Heavy Rescue • Highway Safety Unit
L	• Hazmat • Specialized Foam Unit •

• *Nonaffiliated EMS Organization Vehicle Priorities.* They are eligible for Vehicle Acquisition Activities that are not specific or unique to structural/proximity firefighting.

EMS Vehicle Acquisition Program Priorities	
Priority	**Vehicle Type**
H	Ambulances or transport units to support EMS functions (capped at $150,000)
M	Non-transport (vehicles that do not transport a patient)

(iii) Additional Considerations

- Departments that have automatic aid agreements, mutual aid agreements, or both.
- Population and call volume of primary first due response area or region.
- Replacement of open cab/jump seat configurations.
- Age of the vehicle being replaced; older equipment receive higher consideration.
- Age of the newest vehicle in the department's fleet that is like the vehicle to be replaced.
- Disclose vehicles on loan to the organization in the application narrative but not in the organization's inventory.
- Disclose damaged vehicles and out of service vehicles in the organization's inventory.
- Average age of the fleet; older equipment within the same class.
- Converted vehicles not designed or intended for use in the fire service.

(4) Administrative Costs

Panelists will assess the administrative costs requested in each application and determine whether the request is reasonable and in the best interest of the Program.

Dated: October 24, 2014.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–26293 Filed 11–4–14; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Revocation of Customs Broker's License

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Customs broker's license revocation.

SUMMARY: This document provides notice of the revocation of one (1) customs broker's license.

SUPPLEMENTARY INFORMATION: This document provides that, pursuant to section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), and section 111.45(a) of title 19 of the Code of Federal Regulations (19 CFR 111.45(a)), the following customs broker's license and all associated permits are revoked by operation of law.

Company name	License No.	Port of issuance
All Roads Logistics LLC	28729	Great Falls.

Dated: October 31, 2014.

Sandra L. Bell,

Deputy Assistant Commissioner, Office of International Trade.

[FR Doc. 2014–26335 Filed 11–4–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information collection for review; Form No. G–146; Non-Immigrants Checkout Letter; OMB Control No. 1653–0020.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty day until January 5, 2015.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Scott Elmore, Forms Management Office, U.S. Immigrations and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536–5800.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved information collection.

(2) *Title of the Form/Collection:* Non-Immigrant Checkout Letter.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* (No. Form G–146); U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. When an alien (other than one who is required to depart under safeguards) is granted the privilege of voluntary departure without the issuance of an Order to Show Cause, a control card is prepared. If, after a certain period of time, a verification of departure is not received, actions are taken to locate the alien or ascertain his or her whereabouts. Form G–146 is used to inquire of persons in the United States or abroad regarding the whereabouts of the alien.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 responses at 10 minutes (.16 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,220 annual burden hours.

Dated: October 23, 2014.

Scott Elmore,

Program Manager, Forms Management Office, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2014–26252 Filed 11–4–14; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Comment Request; New Information Collection

ACTION: 60-Day Notice of Information Collection for Review; Allegation of Counterfeiting and Intellectual Piracy; OMB Control No. 1653–NEW.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty day until January 5, 2015.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Chief Information Office, Forms Management Office, U.S. Immigrations and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536–5800.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* Allegation of Counterfeiting and Intellectual Piracy.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This electronic form/collection will be utilized by the public and law enforcement partners as part of an automated allegation and deconfilication program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

Number of respondents	Form name/form No.	Average burden per response (in hours)
12,000	Allegation of Counterfeiting and Intellectual Piracy	.033

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,890 annual burden hours.

Dated: October 17, 2014.

Scott Elmore,

Program Manager, Forms Management Office, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2014–26248 Filed 11–4–14; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–87]

30-Day Notice of Proposed Information Collection: 2015 Rental Housing Finance Survey

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 5, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *ColettePollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 22, 2014.

A. Overview of Information Collection

Title of Information Collection: 2015 Rental Housing Finance Survey.

OMB Approval Number: 2528–0276.

Type of Request: Extension.

Form Number: N/A.

Description of the need for the information and proposed use: The Rental Housing Finance Survey (RHFS) provides a measure of financial, mortgage, and property characteristics of rental housing properties in the United States. The RHFS focuses on mortgage financing of rental housing properties, with emphasis on new originations for purchase-money mortgages and refinancing, and the characteristics of these new originations.

The 2015 RHFS will collect data on property values of residential structures, characteristics of residential structures, rental status and rental value of units within the residential structures, commercial use of space within residential structures, property management status, ownership status, a detailed assessment of mortgage financing, and benefits received from Federal, state, local, and non-governmental programs. Many of the questions are the same or similar to those found on the 1995 Property Owners and Managers Survey, the rental housing portion of the 2001 Residential Finance Survey, and the 2012 RHFS. This survey does not duplicate work done in other existent HUD surveys or studies that deal with rental units financing.

Policy analysts, program managers, budget analysts, and Congressional staff can use the survey's results to advise executive and legislative branches about the mortgage finance characteristics of the rental housing stock in the United States and the suitability of public policy initiatives. Academic researchers and private organizations will also be able to utilize the data to facilitate their research and projects.

HUD needs the RHFS data for the following two reasons:

1. This is the only source of information on the rental housing finance characteristics of rental properties.

2. To gain a better understanding of the mortgage finance characteristics of the rental housing stock in the United States to evaluate, monitor, and design HUD programs.

Members of affected public: For profit businesses (Owners and managers of rental properties).

Estimated Number of Respondents: 9,313.

Estimated Time per Response: 60 minutes.

Frequency of Response: One time every two years.

Estimated Total Annual Burden Hours: 6,486.

Estimated Total Annual Cost: The only cost to respondents is that of their time. The total estimated cost is $6,900,000.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 9(a), and Title 12, U.S.C., Section 1701z–1 et seq.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 30, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–26339 Filed 11–4–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–88]

30-Day Notice of Proposed Information Collection: Application for Healthy Homes and Lead Hazard Control Grant Programs and Quality Assurance Plans

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 5, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Anna Guido@hud.gov* or telephone 202–402–5535. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 3, 2014.

A. Overview of Information Collection

Title of Information Collection: Application for Healthy Homes and Lead Hazard Control Grant Programs and Quality Assurance Plans.

OMB Approval Number: 2539–0015.

Type of Request: Extension.

Form Number: HUD 96012, HUD 96009, HUD 96015, HUD 27061, SF 424, HUD 2994–A, SF LLL, HUD 96010, HUD 96011, HUD 96014, HUD 424 cbw, HUD 2880, HUD 96013, HUD 96008, HUD 27300, SF 424 sup, HUD 2900, HUD 2991, HUD 2993.

Description of the need for the information and proposed use:

Respondents: Cities, States and municipalities, universities, private companies.

Estimated Number of Respondents: 250.

Estimated Number of Responses: 250.

Frequency of Response: Annual.

Average Hours per Response: 80.

Total Estimated Burdens: 23,760 hours, $950,400.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	250	[1]1	1	80	23,760	$40.00	$950,400

[1](Annual)

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 31, 2014.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–26338 Filed 11–4–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK930000.L13100000.FF0000.241A]

Renewal of Approved Information Collection; Control Number 1004–0201

AGENCY: Bureau of Land Management, Interior.

ACTION: 30-day notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) has submitted an information collection request to the Office of Management and Budget (OMB) to continue the collection of information from applicants for oil shale leases, oil shale lessees, and oil shale operators. The Office of Management and Budget (OMB) previously approved this information collection activity, and assigned it control number 1004–0201.

DATES: The OMB is required to respond to this information collection request within 60 days but may respond after 30 days. For maximum consideration, written comments should be received on or before December 5, 2014.

ADDRESSES: Please submit comments directly to the Desk Officer for the Department of the Interior (OMB #1004-0201), Office of Management and Budget, Office of Information and Regulatory Affairs, fax 202–395–5806, or by electronic mail at *OIRA_submission@omb.eop.gov.* Please provide a copy of your comments to the BLM. You may do so via mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0201'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Mary Linda Ponticelli at 202–912–7115. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339 to leave a message for Ms. Ponticelli. You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act (44 U.S.C. 3501–3521) and OMB regulations at 5 CFR part 1320 provide that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond. In order to obtain and renew an OMB control number, Federal agencies are required to seek public comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)).

As required at 5 CFR 1320.8(d), the BLM published a 60-day notice in the **Federal Register** on August 4, 2014 (79 FR 45216), and the comment period ended September 3, 2014. The BLM received no comments. The BLM now requests comments on the following subjects:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;
2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and
4. How to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Please send comments as directed under **ADDRESSES** and **DATES**. Please refer to OMB control number 1004–0201 in your correspondence. 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.

The following information is provided for the information collection:

Title: Oil Shale Management (43 CFR parts 3900, 3910, 3920, and 3930).

OMB Control Number: 1004–0201.

Summary: This control number applies to the exploration, development, and utilization of oil shale resources on public lands managed by the BLM. Currently, the only oil shale leases issued by the BLM are for research, development, and demonstration (RD&D). However, the BLM has issued a regulatory framework for both commercial leases and conversion of RD&D leases to commercial leases.

Frequency of Collection: On occasion.

Forms: None.

Description of Respondents: Applicants for oil shale leases, oil shale lessees, and oil shale operators.

Estimated Annual Responses: 24.

Estimated Annual Burden Hours: 1,795.

Estimated Annual Non-Hour Costs: $526,627.

The estimated burdens are itemized in the following table:

Type of response A.	Number of responses B.	Hours per response C.	Total time (Column B × Column C) D.
Application for Waiver, Suspension, or Reduction of Rental or Payment In Lieu of Production; Application for Reduction in Royalty; or Application for Waiver of Royalty—43 CFR 3903.54(b)	1	1	1
Bonding Requirements—43 CFR subpart 3904	1	1	1
Application for an Exploration License—43 CFR 3910.31(a) through (e)	1	24	24
Notice Seeking Participation in an Exploration License—43 CFR 3910.31(f)	1	1	1
Data Obtained Under an Exploration License—43 CFR 3910.44	1	8	8
Response to Call for Expression of Leasing Interest—43 CFR 3921.30	1	4	4
Application for a Lease—Individuals—43 CFR 3902.23, 3922.20, and 3922.30	1	308	308
Application for a Lease—Associations—43 CFR 3902.24, 3922.20, and 3922.30	1	308	308
Application for a Lease—Corporations—43 CFR 3902.25, 3922.20, and 3922.30	1	308	308
Sealed Bid—43 CFR 3924.10	1	8	8
Application to Convert Research, Development, and Demonstration Lease to Commercial Lease—43 CFR 3926.10(c)	1	308	308
Drill and Geophysical Logs—43 CFR 3930.11(b)	1	19	19
New Geologic Information—43 CFR 3930.20(b)	1	19	19
Plan of Development—43 CFR 3931.11	1	308	308
Application for Suspension of Lease Operations and Production—43 CFR 3931.30	1	24	24

Type of response A.	Number of responses B.	Hours per response C.	Total time (Column B × Column C) D.
Exploration Plan—43 CFR 3931.41	1	24	24
Modification of Approved Exploration Plan or Plan of Development—43 CFR 3931.50	1	24	24
Production Maps and Production Reports—43 CFR 3931.70	1	16	16
Records of Core or Test Hole Samples and Cuttings—43 CFR 3931.80	1	16	16
Application for Modification of Lease Size—43 CFR 3932.10, 3930.20, and 3932.30	1	12	12
Request for Approval of Assignment of Record Title or Sublease or Notice of Overriding Royalty Interest Assignment—43 CFR subpart 3933	2	10	20
Relinquishment of Lease or Exploration License—43 CFR 3934.10	1	18	18
Production and Sale Records—43 CFR 3935.10	1	16	16
Totals	24		1,795

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2014–26327 Filed 11–4–14; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–884]

Certain Consumer Electronics with Display and Processing Capabilities; Commission Decision to Review In Part a Final Initial Determination Finding a Violation of Section 337; Request for Written Submissions; Extension of Target Date

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's (''ALJ'') final initial determination (''final ID'') issued on August 29, 2014, finding a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), and to extend the target date in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. 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 at *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 25, 2013, based on a complaint filed by Graphics Properties Holdings, Inc. of New Rochelle, New York (''GPH''). 78 FR 38072–73 (June 25, 2013). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain consumer electronics with display and processing capabilities by reason of infringement of certain claims of United States Patent Nos. 6,650,327 (''the '327 patent''); 8,144,158 (''the '158 patent''); and 5,717,881 (''the '881 patent''). The notice of investigation named as respondents Panasonic Corporation of Osaka, Japan and Panasonic Corporation of North America of Secaucus, New Jersey (collectively ''Panasonic''); Toshiba Corporation of Tokyo, Japan and Toshiba America Information Systems, Inc. of Irvine, California (collectively ''Toshiba''); Toshiba America, Inc. of New York, New York (''Toshiba America''); Vizio, Inc. of Irvine, California (''Vizio''); AmTran Logistics, Inc. of Irvine, California and AmTran Technology Co., Ltd. of New Taipei City, Taiwan (collectively ''AmTran''); and ZTE Corporation of Shenzhen, China, ZTE (USA) Inc. of Richardson, Texas, and ZTE Solutions of Richardson, Texas (collectively, ''ZTE''). The Office of Unfair Import Investigations (''OUII'') is a party to the investigation. The Commission later terminated the investigation with respect to Panasonic, Vizio, AmTran, and ZTE.

On March 31, 2014, the Commission determined not to review an ID granting respondents' motion for summary determination that claim 1 of the '881 patent is invalid for indefiniteness, thus terminating the '881 patent from the investigation. Notice (Mar. 31, 2014); Order Nos. 53 (Feb. 27, 2014), 60 (Mar. 11, 2014, correcting Order No. 53).

On August 29, 2014, the ALJ issued his final ID, finding a violation of section 337 with respect to Toshiba. Specifically, the ALJ found that all of the accused products literally infringe claims 2, 3, 7, 25, and 26 of the '327 patent and claims 1, 4, 7, and 10 of the '158 patent (''the asserted claims''). The ALJ also found that none of the asserted claims of the '327 patent are invalid as anticipated under 35 U.S.C. 102 or as obvious under 35 U.S.C. 103. The ALJ further found that none of the asserted claims of the '158 patent are invalid as anticipated under 35 U.S.C. 102, as obvious under 35 U.S.C. 103, or for lack of written description under 35 U.S.C. 112. The ALJ also found that the respondents did not establish that any of the asserted patents are unenforceable due to estoppel based on GPH's obligation to license the asserted patents under reasonable and nondiscriminatory (''RAND'') terms or that license exhaustion applies with respect to any of the asserted patents. The ALJ further found that a domestic industry exists with respect to the '327 and '158 patents.

The ALJ found, however, that no violation of section 337 exists as to respondent Toshiba America with respect to the asserted claims of the '327 and '158 patents because GPH failed to satisfy the importation or sale requirement of section 337 establishing subject matter jurisdiction as to Toshiba America. No party petitioned for review of this finding.

The final ID also includes the ALJ's recommended determination (''RD'') on remedy and bonding. The ALJ recommends that the Commission issue a limited exclusion order barring entry of Toshiba's consumer electronics with display and processing capabilities that infringe the asserted claims of the '327 and '158 patents in the event it finds a violation of section 337. The ALJ also recommends issuance of a cease and desist order against Toshiba, and recommends the imposition of a zero percent bond during the period of Presidential review because GPH failed to support its bond proposals.

On September 15, 2014, Toshiba filed a petition for review of the final ID's finding of violation. In particular, Toshiba requested review of the final ID's findings concerning claim construction, invalidity, infringement, the economic prong of the domestic industry, Toshiba's license defense, and Toshiba's RAND defense. Also on September 15, 2014, GPH filed a contingent petition for review concerning the ALJ's lack of findings with respect to whether GPH additionally satisfied the economic prong of the domestic industry requirement based on the domestic activities of its licensees pursuant to 19 U.S.C. 1337(a)(3)(A) and (B).

On September 23, 2014, GPH filed a response to Toshiba's petition for review, and Toshiba filed a response to GPH's contingent petition for review. Also on September 23, 2014, the Commission investigative attorney filed a joint response to the private parties' petitions.

On September 30, 2014, Toshiba filed a post-RD statement on the public interest pursuant to Commission Rule 210.50(a)(4). On October 1, 2014, GPH filed its post-RD public interest statement pursant to the Commission Rule 210.50(a)(4). No responses were filed by the public in response to the post-RD Commission Notice issued on September 3, 2014. *See* Notice of Request for Statements on the Public Interest (Sept. 3, 2014).

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part.

Specifically, the Commission has determined to review the ALJ's construction of the limitation ''frame buffer'' in claims 2, 3, and 7 of the '327 patent and claims 1, 7, and 8 of the '158 patents, and the claim limitations ''scan converter'' and ''scan convert data'' recited in claim 1 of the '158 patent. In addition, the Commission has determined to review the final ID's finding that claim 1 of the '158 patent is not invalid under 35 U.S.C. 112 for failure to satisfy the written description requirement.

The Commission has also determined to review the final ID's finding that the reference Martin, P. et al., ''Turbo VRX: A High-Performance Graphics Workstation Architecture'' (''the Martin publication'') does not anticipate claim 2 of the '327 patent and claims 1, 4, 7, and 10 of the '158 patent. The Commission has further determined to review the final ID's finding that Toshiba failed to show by clear and convincing evidence that the asserted claims of the '327 and '158 patents are obvious in view of Martin, U.S. Patent No. 5,977,983 to Einkauf (''Einkauf''), and AT&T's Pixel Machine (''Pixel Machine''), alone or in combination with other asserted prior art.

Because the Commission has determined to review the ALJ's constructions of the limitations ''frame buffer,'' ''scan converter,'' and ''scan convert data,'' the Commission has also determined to review the final ID's finding of infringement with respect to all of the accused graphics processing units, including those for which Toshiba did not petition for review.

The Commission has determined to review the final ID's finding that GPH has satisfied the economic prong of the domestic industry requirement. Accordingly, the Commission has determined to review the final ID's finding that GPH's motion for summary determination that it satisfied the economic prong of the domestic industry requirement through its licensees' activities under 337(a)(3)(A) and (B) for expenditures in labor, capital, plant, and equipment with respect to its licensees' research and development activities is moot. Furthermore, because the Commission has determined to review the ALJ's constructions of the limitations ''frame buffer,'' ''scan converter,'' and ''scan convert data,'' the Commission has determined to review the final ID's finding that GPH satisfied the technical prong of the domestic industry requirement.

The Commission has further determined to review the final ID's finding that the defense of license exhaustion does not apply to certain of Toshiba's accused products by virtue of a license agreement concerning Toshiba's display panel manufacturers. The Commission has also determined to review the final ID's finding that the '327 patent is not subject to RAND encumbrances.

The Commission has determined not to review the remaining issues decided in the final ID.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

1. Does the correct construction of the ''frame buffer'' limitation require that the claimed ''frame buffer'' must store ''floating point color values'' but need not store a ''full frame of fragment or pixel data after rasterization is complete but immediately prior to the values being scanned out to the display?'' Please discuss the correct construction of these terms in reference to the intrinsic evidence and *Silicon Graphics, Inc.* v. *ATI Technologies, Inc.,* 607 F.3d 784, 792 (Fed. Cir. 2010).

2. Please discuss whether the claimed ''scan converter'' is capable of operating on an entirely floating point basis while receiving and outputting data that is not in floating point format. Please address how this affects the proper construction of the claim limitations ''scan converter'' and ''scan convert data'' and whether claim 1 of the '158 patent is invalid under 35 U.S.C. 112 for failure to satisfy the written description requirement.

3. Please discuss whether the Martin publication by itself is enabling prior art. In addition, please address whether GPH's reliance on the reference ''High Speed High Quality Antialiased Vector Generation'' by A. Barkans to discredit the Martin publication is legally permissible in the context of assessing whether the Martin publication is enabled.

4. Please discuss whether, if the Martin publication is enabled, the Martin publication itself reads on every limitation of claim 2 of the '327 patent and claims 1, 4, 7, and 10 of the '158 patent.

5. Please discuss whether, if the Martin publication is enabled, Martin alone or in combination with other prior art renders obvious the asserted claims of the '327 and '158 patents with respect to the claim limitations ''frame buffer,'' ''s10e5 format,'' ''scan converter,'' and ''scan convert data.''

6. Please discuss whether Einkauf, alone or in combination with other prior art, renders obvious the asserted claims of the '327 and '158 patents with respect to the claim limitations ''frame buffer,'' ''s10e5 format,'' ''scan converter,'' and ''scan convert data.''

7. Please discuss whether Pixel Machine, alone or in combination with other prior art, renders obvious the asserted claims of the '327 and '158 patents with respect to the claim limitations ''frame buffer,'' ''texture circuit,'' ''s10e5 format,'' ''scan converter,'' and ''scan convert data.'' In particular, please address if the question of whether Pixel Machine renders obvious the ''texture circuit'' limitation in claim 4 of the '158 patent remains at issue.

8. In light of the Commission's determination to review the ALJ's construction of the claim limitations ''frame buffer,'' ''scan converter,'' and ''scan convert data,'' please discuss whether any of the

accused products infringe the asserted claims of the '327 and '158 patents. Also, please address whether the source code upon which GPH's expert relied with respect to his opinion that the accused Toshiba products infringe the asserted claims of the '327 and '158 patents accurately reflects the operation of those products.

9. Please discuss, based on record evidence, the extent to which GPH's purported licensing-based domestic industry will be ongoing following the termination of this investigation.

10. Please discuss whether GPH has satisfied the economic prong of the domestic industry requirement through its licensees' activities under 337(a)(3)(A) and (B) for expenditures in labor, capital, plant, and equipment with respect to its licensees' research and development activities.

11. In light of the Commission's determination to review the ALJ's construction of the claim limitations ''frame buffer,'' ''scan converter,'' and ''scan convert data,'' please discuss whether GPH has satisfied the technical prong of the domestic industry requirement.

12. Please explain the scope of licensed products recited in the license agreement concerning certain of Toshiba's display panel manufacturers in accordance with the laws of the state of New York. Please discuss whether Toshiba is a sublicensee pursuant to this license agreement.

13. Please discuss whether GPH incurred a RAND obligation as to the '327 and/or '158 patent by reason of GPH's or SGI's conduct (1) before any of the standards committees with which GPH or SGI was involved, or (2) in negotiations with potential licensees. In particular, please address: (1) The legal significance of SGI's purported statement to the OpenGL Architecture Review Board and the Khronos Group Board of Promoters that, as to the '327 patent, it will discuss licensing on RAND terms; (2) whether the '327 patent is incorporated into an optional extension; (3) if the '327 patent is incorporated into an optional extension, is it considered part of the Ratified Specification; and (4) whether the asserted claims of the '327 and/or '158 patent are ''Necessary Claims'' or ''Necessary Patent Claims.''

14. Please discuss the course of conduct between Toshiba and GPH regarding negotiations on RAND licensing terms.

15. Please discuss whether GPH ever submitted an IP Disclosure Certificate in connection with its participation with the Open GL standard under the Khronos Group Membership Agreement.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation, including OUII, are requested to file written submissions on the issues identified in this notice. Parties to the investigation, including OUII, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant is also requested to submit proposed remedial orders for the Commission's consideration and to provide identification information for all importers of the subject articles. Complainant and OUII are also requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on November 21, 2014. Initial submissions are limited to 125 pages, not including any attachments or exhibits related to discussion of the public interest. Reply submissions must be filed no later than the close of business on December 5, 2014. Reply submissions are limited to 75 pages, not including any attachments or exhibits related to discussion of the public interest. The parties may not incorporate by reference their filings before the ALJ. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C...210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–884'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 01.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The target date for completion of the investigation is extended to January 16, 2015.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Issued: October 30, 2014.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–26246 Filed 11–4–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110-New]

Agency Information Collection Activities Proposed eCollection eComments Requests 60-Day Notice Template for Extension of Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery—New Collection

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Notice and request for comments.

SUMMARY: Federal Bureau of Investigation, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery '' for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et. seq.). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery, this notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

DATES: Consideration will be given to all comments received by January 5, 2015.

ADDRESSES: Submit comments by one of the following methods:

- Web site: *www.regulations.gov.*
- Email: *oira_submission@omb.eop.gov*
- Fax: (202) 395–5806

Comments submitted in response to this notice may be made available to the public by contacting John Kane at 1 (304) 625–3568. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, 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. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact John Kane, National Data Exchange (N–DEx) Program Office, FBI—Criminal Justice Information Services (CJIS) Division, at 1 (304) 625–3568, or email *john.kane@ic.fbi.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

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 non-controversial 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 will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- 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 generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it 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 non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

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.

Current Actions: New Information Collection Request

Type of Review: New Collection

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Number of Respondents: 2000

Below we provide projected average estimates for the next three years:

Average Expected Annual Number of activities: 1

Average number of Respondents per Activity: 1000

Annual responses: 2000

Frequency of Response: Once per request

Average minutes per response: 10

Burden hours: 167

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or 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 utilize technology and systems for the purpose 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, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection Regulations.gov.

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: October 29, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–26107 Filed 11–4–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

Notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States* v. *Superior Crude Gathering, Inc.* (Civil Action No. 2:14–cv–0433), which was lodged with the United States District Court for the Southern District of Texas on October 29, 2014.

The Complaint was filed on the same day and seeks civil penalties under Section 311 of the Clean Water Act related to the unauthorized discharge of oil from two crude oil storage tanks at the Superior Crude storage facility in Ingleside, Texas and for violations of spill prevention and planning regulations. Superior Crude has ceased operations at the facility, which is located at the former Falcon Refinery. Under the settlement, Superior Crude will pay a $1.61 million civil penalty for violation of the Clean Water Act.

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. *Superior Crude Gathering, Inc.* (Civil Action No. 2:14–cv–0433), D.J. Ref. No. 90–5–1–1–10773. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas P. Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–26241 Filed 11–4–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on October 15, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Aparian, Inc., Irvine, CA; Doosan Heavy Industrial & Construction Co., Ltd., Daejeon, REPUBLIC OF KOREA; FASTECH, Bucheon, REPUBLIC OF KOREA; Insight Automation, Inc., Erlanger, KY; K.A. Schmersal GmbH & Co. KG, Wuppertal, GERMANY; Nordson Corporation, Westlake, OH; Rocon L.L.C., Hazel Park, MI; and SAMWON ACT Co., Ltd., Busan, REPUBLIC OF KOREA, have been added as parties to this venture.

Also, Alstom Transport, Levallois-Perret, FRANCE; Altera Corporation, San Jose, CA; Beijing KLT Electric Co., Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; Jacobs Automation, Hebron, KY; Jetter AG, Ludwigsburg, GERMANY; Monaghan Engineering, Inc., Dripping Springs, TX; Monduran Pty Ltd, Southport, AUSTRALIA; Secure Crossing, Dearborn, MI; Sierra Instruments, Monterey, CA; TDK-Lambda, Neptune, NJ; Thermo Scientific AquaSensors, Waltham, MA; Trebing + Himstedt, Schwerin, GERMANY; and Wolke Inks & Printers GmbH, Hersbruck, GERMANY, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned

activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on July 15, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 11, 2014 (79 FR 46876).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–26332 Filed 11–4–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Centric Operations Industry Consortium, Inc.

Notice is hereby given that, on October 14, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Network Centric Operations Industry Consortium, Inc. (''NCOIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Secutor US, LLC, Clifton, VA; TeraLogics, LLC, Ashburn, VA; Private Digital Network Services, LLC, Silver Spring, MD; and Paula Moss (individual member), Fort Wayne, IN, have been added as parties to this venture.

In addition, Raytheon Company, Dallas, TX; and Australian Department of Defence Capability Development Group, Canberra, AUSTRALIA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCOIC intends to file additional written notifications disclosing all changes in membership.

On November 19, 2004, NCOIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 2, 2005 (70 FR 5486).

The last notification was filed with the Department on April 30, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 30, 2014 (79 FR 31142).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–26334 Filed 11–4–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Nondisplacement of Qualified Workers Under Service Contracts, Executive Order 13495

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Wage and Hour Division (WHD) sponsored information collection request (ICR) titled, ''Nondisplacement of Qualified Workers Under Service Contracts, Executive Order 13495,'' 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 December 5, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201410-1235-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–WHD, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the information collection requirements codified in regulations 29 CFR 9.12 and 9.21 related to the nondisplacement of qualified workers under service contracts, pursuant to E.O. 13495, Nondisplacement of Qualified Workers Under Service Contracts. More specifically, the information collections relate to the employment offer, certified list of employees, and complaint filing provisions of the rule. E.O. 13495 sections 5 and 6 authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1235–0025.

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 December 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 9, 2014 (79 FR 33002).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1235–0025. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–WHD.

Title of Collection: Nondisplacement of Qualified Workers Under Service Contracts, Executive Order 13495.

OMB Control Number: 1235–0025.

Affected Public: Individuals or households and private sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 40,017.

Total Estimated Number of Responses: 2,070,017.

Total Estimated Annual Time Burden: 57,006 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: October 30, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–26210 Filed 11–4–14; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Excavation Cave-in Protection System Design Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Excavation Cave-in Protection System Design 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 December 5, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201409-1218-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (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 authorization for the information collections required in the design of a cave-in protection system that are codified in regulations 29 CFR part 1926, subpart P. Employers in the construction industry and OSHA compliance officers need this information to ensure cave-in protection systems are designed, installed, and used in a manner that adequately protects workers. More specifically, regulations 29 CFR 1926.652 paragraphs (b) and (c) contain paperwork requirements imposing burden hours or costs on employers. These paragraphs require subject employers to use protective systems to prevent cave-ins during excavation work; these systems include sloping the side of the trench, benching the soil away from the excavation, or using a support system or shield (such as a trench box). The Standard specifies allowable configurations and slopes for excavations, and it provides appendices to assist employers in designing protective systems. The regulations also provide options as to how the required records are developed. 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 1218–0137.

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 December 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 July 30, 2014 (79 FR 44199).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0137. 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: Excavation Cave-in Protection System Design Standard.

OMB Control Number: 1218–0137.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 8,152.

Total Estimated Number of Responses: 14,266.

Total Estimated Annual Time Burden: 14,266 hours.

Total Estimated Annual Other Costs Burden: $216,721.

Dated: October 30, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–26215 Filed 11–4–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for the Senior Community Service Employment Program Performance Measurement System; Extension With Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the 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 [44 U.S.C. 3506(c)(2)(A)] (PRA). The PRA helps ensure that respondents can provide requested data in the desired format with minimal reporting burden (time and financial resources), collection instruments are clearly understood and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data for program performance reports, including a customer satisfaction survey, for the Senior Community Service Employment Program (SCSEP). The current expiration date for the Office of Management and Budget's approval of these data collection forms is March 31, 2015.

DATES: Submit written comments to the office listed in the addresses section below on or before January 5, 2015.

ADDRESSES: Send written comments to Jennifer Pirtle, Older Worker Unit, Office of Workforce Investment, Room C4526, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3045 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–3015. Email: *SCSEP.National@dol.gov.* To obtain a copy of the proposed information collection request (ICR), and for further information, please contact the person listed above.

SUPPLEMENTARY INFORMATION:

I. Background

Originally authorized by the Older Americans Act of 1965, the Senior Community Service Employment Program (SCSEP) is funded for approximately $434 million for PY 2014 and will provide over 44,000 positions in which nearly 69,000 low-income persons aged 55 or older will be placed in community service employment.

A slight upward adjustment in burden hours is due to the recent awarding of 14 new discretionary grants (of one year duration), for which we are collecting additional information. We are also including an estimated burden of 2 hours per quarter, per grant, for the quarterly narrative report.

II. Review Focus

The Department is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions

Type of Review: extension with revisions.

Title: Senior Community Service Employment Program Performance Measurement System.

OMB Number: 1205–0040.

Affected Public: individuals/households, state/local/tribal governments, and the private sector (businesses or other for-profits, and not-for-profit institutions).

Estimated Total Annual Respondents: 72 grantees will respond to grant reports and an additional 22,000 respondents are expected to respond to the customer satisfaction surveys.

Estimated Total Annual Responses: 232,520.

Estimated Total Annual Burden Hours: 32,922.

Total Estimated Annual Other Cost Burden: $0.

We will summarize and/or include in the request for OMB approval of the ICR, the comments received in response to this comment request; they will also become a matter of public record.

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–26279 Filed 11–4–14; 8:45 am]

BILLING CODE 4510–FN–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 revision of the ''National Compensation Survey.'' 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 January 5, 2015.

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, at 202–691–7628 (this is not a toll free number.) (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The National Compensation Survey (NCS) is an ongoing survey of earnings and benefits among private firms, State, and local government. Data from the NCS program include estimates of wages covering broad groups of related occupations, and data that directly link benefit plan costs with detailed plan provisions. The NCS is used to produce the Employment Cost Trends, including the Employment Cost Index (ECI) and Employer Costs for Employee Compensation (ECEC), employee benefits data (on coverage, cost and provisions), data used by the President's Pay Agent and this data is used by compensation administrators and researchers in the private sector. Data from the NCS are used to help determine monetary policy (as a Principal Federal Economic Indicator.)

The integrated program's single sample produces both time-series indexes and cost levels for industry and occupational groups, thereby increasing the analytical potential of the data.

The NCS employs probability methods for selection of occupations. This ensures that sampled occupations represent all occupations in the workforce, while minimizing the reporting burden on respondents. The survey collects data from a sample of employers. These data will consist of information about the duties, responsibilities, and compensation (earnings and benefits) for a sample of occupations for each sampled employer.

Data will be updated on a quarterly basis. The updates will allow for production of data on change in earnings and total compensation.

II. Current Action

Office of Management and Budget clearance is being sought for the National Compensation Survey.

The NCS collects earnings and work level data on occupations for the nation. The NCS also collects information on the cost, provisions, and incidence of major employee benefits through its benefit cost and benefit provision programs and publications.

BLS has for a number of years been using a revised approach to the Locality Pay Survey (LPS); this uses data from two current BLS programs—the Occupational Employment Statistics (OES) survey and the ECI program. This approach uses OES data to provide wage data by occupation and by area, while ECI data are used to specify grade level effects. This approach is also being used to extend the estimation of pay gaps to areas that were not included in the prior Locality Pay Survey sample, and these data have been delivered to the Pay Agent (in 2014, data for 92 areas were delivered.)

The NCS in September 2012 started reverting to a national survey design in order to preserve the reliability of the ECI and the EBS. The NCS private industry sample is on a three-year rotational cycle, with one frozen sample year for the NCS private industry sample when a new NCS State and local government sample starts collection in 2015.

The NCS continues to provide employee benefit provision and participation data. These data include estimates of how many workers receive the various employer-sponsored benefits. The data also include information about the common provisions of benefit plans.

NCS collection will use eight forms (normally having unique private industry and government initiation and update collection forms and versions.) For NCS update collection, the forms or screens give respondents their previously reported information, the dates they expected change to occur to these data, and space for reporting these changes.

The NCS for electronic collection uses a Web-based system (Web-Lite) that allows NCS respondents, using Secure Sockets Layer (SSL) encryption and the establishment's schedule number, to upload data files to a secure BLS server and forwards those files to the assigned BLS field economist. A new more interactive Web page system was developed allowing respondents to further refine and break out the detailed data they send NCS using this Web application.

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: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: National Compensation Survey.

OMB Number: 1220–0164.

Affected Public: Businesses or other for-profit; not-for-profit institutions; and State, local, and tribal government.

Total Respondents: 16,428 (three-year average).

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

All figures in the table below are based on a three-year average. The total respondents in the table are greater than the figure shown above because many respondents are asked to provide information relating to more than one form.

Form	Total respondents per form	Frequency	Total annual responses	Average minutes	Total hours
Establishment collection form (NCS Form 15–1G)	532	1	532	54	479
Establishment collection form (NCS Form 15–1P)	2247	1	2247	54	2022
Earnings form (NCS Form 15–2G)	532	1	532	20	177
Earnings form (NCS Form 15–2P)	2247	1	2247	20	749
Wage Shuttle form computer generated earnings update form #	12226	4	48904	20	16301
Benefits Collection Form (NCS 15–3G)	532	1	532	180	1596
Benefits Collection Form (NCS 15–3P)	2247	1	2247	180	6741
Summary of Benefits (Benefit update form SO–1003) is computer generated #	12226	4	48904	20	16301
Collection not tied to a specific form (testing, Quality Assurance/Quality Measurement, etc.)	1423		3205		613
Totals	34212		109350		44979

** Collection forms can have multiple uses. The table above shows the average collection times for the predominant uses of the forms. Record checks (for quality assurance and measurement) are done on a sub-sample of respondents verifying responses for pre-selected sections of the collection forms.

Includes IDCF form time (Web based screen for SSL encryption Web site secure.)

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 30th day of October 2014.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–26278 Filed 11–4–14; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Notice of Intent To Award—Grant Awards for the Provision of Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 2015

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to make FY 2015 Competitive Grant Awards.

SUMMARY: The Legal Services Corporation (LSC) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal services to eligible low-income clients, beginning January 1, 2015.

DATES: All comments and recommendations must be received on or before the close of business on December 5, 2014.

ADDRESSES: Legal Services Corporation—Competitive Grants, Legal Services Corporation; 3333 K Street NW., Third Floor; Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Reginald Haley, Office of Program Performance, at (202) 295–1545, or *haleyr@lsc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to LSC's announcement of funding availability on April 11, 2014 (79 FR 20243), and Grant Renewal applications due beginning June 2, 2014, LSC intends to award funds to provide civil legal services in the indicated service areas. Applicants for each service area are listed below. The amounts below reflect the most current information available, i.e., 100% implementation of the U.S. Census American Community Survey 2009–2011 poverty population data and the current FY 2015 continuing resolution for LSC Basic Field Funding—$335,514,022. The amounts incorporate the reduction of .0554% contained in Public Law 113–164. Amounts are subject to change. LSC will post all updates and/or changes to this notice at *www.grants.lsc.gov.* Interested parties are asked to visit *www.grants.lsc.gov* regularly for updates on the LSC competitive grants process.

Name of applicant organization	State	Service area	Estimated annualized 2015 funding
Alaska Legal Services Corporation	AK	AK–1	$645,180
Alaska Legal Services Corporation	AK	NAK–1	530,075
Legal Services Alabama	AL	AL–4	5,839,519
Legal Aid of Arkansas	AR	AR–6	1,462,142
Center for Arkansas Legal Services	AR	AR–7	2,134,430
American Samoa Legal Aid	AS	AS–1	205,475
Community Legal Services	AZ	AZ–3	4,905,799
Community Legal Services	AZ	MAZ	145,206
Southern Arizona Legal Aid	AZ	AZ–5	2,074,272
Southern Arizona Legal Aid	AZ	NAZ–6	624,756
DNA-People's Legal Services	AZ	AZ–2	418,723
DNA-People's Legal Services	AZ	NAZ–5	2,557,639
California Indian Legal Services	CA	CA–1	23,947

Name of applicant organization	State	Service area	Estimated annualized 2015 funding
California Indian Legal Services	CA	NCA–1	865,944
Greater Bakersfield Legal Assistance	CA	CA–2	996,289
Central California Legal Services	CA	CA–26	2,775,821
Legal Aid Foundation of Los Angeles	CA	CA–29	5,618,846
Neighborhood Legal Services of Los Angeles County	CA	CA–30	3,683,409
Inland Counties Legal Services	CA	CA–12	4,572,444
Legal Services of Northern California	CA	CA–27	3,569,238
Legal Aid Society of San Diego	CA	CA–14	2,731,081
California Rural Legal Assistance	CA	CA–31	4,660,100
California Rural Legal Assistance	CA	MCA	2,581,785
Bay Area Legal Aid	CA	CA–28	4,109,555
Legal Aid Society of Orange County	CA	CA–19	3,436,665
Colorado Legal Services	CO	CO–6	4,304,396
Colorado Legal Services	CO	MCO	145,253
Colorado Legal Services	CO	NCO–1	94,128
Statewide Legal Services of Connecticut	CT	CT–1	2,376,647
Pine Tree Legal Assistance	CT	NCT–1	15,343
Neigh. Legal Services Program of the District of Columbia	DC	DC–1	737,705
Legal Services Corporation of Delaware	DE	DE–1	674,638
Legal Aid Bureau	DE	MDE	24,282
Community Legal Services of Mid-Florida	FL	FL–15	3,995,807
Florida Rural Legal Services	FL	FL–17	3,676,027
Florida Rural Legal Services	FL	MFL	878,356
Legal Services of Greater Miami	FL	FL–5	3,149,743
Legal Services of North Florida	FL	FL–13	1,479,144
Bay Area Legal Services	FL	FL–16	3,201,721
Three Rivers Legal Services	FL	FL–14	1,983,701
Coast to Coast Legal Aid of South Florida	FL	FL–18	1,915,738
Atlanta Legal Aid Society	GA	GA–1	3,587,818
Georgia Legal Services Program	GA	GA–2	7,541,631
Georgia Legal Services Program	GA	MGA	383,448
Guam Legal Services	GU	GU–1	244,784
Legal Aid Society of Hawaii	HI	HI–1	1,186,712
Legal Aid Society of Hawaii	HI	NHI–1	224,518
Iowa Legal Aid	IA	IA–3	2,450,475
Iowa Legal Aid	IA	MIA	36,901
Idaho Legal Aid Services	ID	ID–1	1,427,877
Idaho Legal Aid Services	ID	MID	182,803
Idaho Legal Aid Services	ID	NID–1	63,678
Legal Assistance Foundation of Metropolitan Chicago	IL	IL–6	5,675,740
Legal Assistance Foundation of Metropolitan Chicago	IL	MIL	244,142
Land of Lincoln Legal Assistance Foundation	IL	IL–3	2,455,617
Prairie State Legal Services	IL	IL–7	3,569,498
Indiana Legal Services	IN	IN–5	6,412,776
Indiana Legal Services	IN	MIN	111,200
Kansas Legal Services	KS	KS–1	2,565,390
Legal Aid of the Blue Grass	KY	KY–10	1,446,156
Legal Aid Society	KY	KY–2	1,294,560
Appalachian Research and Defense Fund of Kentucky	KY	KY–5	1,500,155
Kentucky Legal Aid	KY	KY–9	1,115,512
Acadiana Legal Services Corp	LA	LA–10	1,439,130
Legal Services of North Louisiana	LA	LA–11	1,384,455
Southeast Louisiana Legal Services Corporation	LA	LA–13	2,782,247
Volunteer Lawyers Project of the Boston Bar	MA	MA–11	1,860,353
South Coastal Counties Legal Services	MA	MA–12	841,489
Northeast Legal Aid	MA	MA–4	757,138
Community Legal Aid	MA	MA–10	1,368,149
Legal Aid Bureau	MD	MD–1	3,642,691
Legal Aid Bureau	MD	MMD	88,919
Pine Tree Legal Assistance	ME	ME–1	1,079,493
Pine Tree Legal Assistance	ME	MMX–1	122,153
Pine Tree Legal Assistance	ME	NME–1	63,174
Michigan Advocacy Program	MI	MI–12	1,600,628
Michigan Advocacy Program	MI	MMI	588,703
Legal Services of Eastern Michigan	MI	MI–14	1,590,495
Legal Services of Northern Michigan	MI	MI–9	797,084
Legal Aid of Western Michigan	MI	MI–15	2,168,415
Michigan Community Legal Aid	MI	MI–13	4,271,592
Legal Aid and Defender Association	MI	MI–13	4,271,592
Michigan Indian Legal Services	MI	NMI–1	161,349
Legal Aid Services of Northeast Minnesota	MN	MN–1	429,287
Cent Minnesota Legal Services	MN	MN–6	1,638,376

Name of applicant organization	State	Service area	Estimated annualized 2015 funding
Legal Services of Northwest Minnesota Corporation	MN	MN–4	328,664
Southern Minnesota Regional Legal Services	MN	MMN	195,674
Southern Minnesota Regional Legal Services	MN	MN–5	1,513,225
Anishinabe Legal Services	MN	NMN–1	234,235
Legal Aid of Western Missouri	MO	MMO	79,674
Legal Aid of Western Missouri	MO	MO–3	1,896,461
Legal Services of Eastern Missouri	MO	MO–4	1,955,144
Mid-Missouri Legal Services	MO	MO–5	435,364
Legal Services of Southern Missouri	MO	MO–7	1,652,442
Micronesian Legal Services	MP	MP–1	1,227,600
North Mississippi Rural Legal Services	MS	MS–9	1,708,407
Mississippi Center For Legal Services	MS	MS–10	2,594,814
Mississippi Center For Legal Services	MS	NMS–1	81,476
Montana Legal Services Association	MT	MMT	53,384
Montana Legal Services Association	MT	MT–1	932,088
Montana Legal Services Association	MT	NMT–1	156,064
Legal Aid of North Carolina	NC	MNC	524,174
Legal Aid of North Carolina	NC	NC–5	10,379,972
Legal Aid of North Carolina	NC	NNC–1	213,912
Southern Minnesota Regional Legal Services	ND	MND	113,365
Legal Services of North Dakota	ND	ND–3	437,618
Legal Services of North Dakota	ND	NND–3	264,023
Legal Aid of Nebraska	NE	MNE	41,353
Legal Aid of Nebraska	NE	NE–4	1,491,039
Legal Aid of Nebraska	NE	NNE–1	32,398
Legal Advice & Referral Center	NH	NH–1	726,376
Legal Services of Northwest Jersey	NJ	NJ–15	380,382
South Jersey Legal Services	NJ	MNJ	118,001
South Jersey Legal Services	NJ	NJ–16	1,220,144
Northeast New Jersey Legal Services	NJ	NJ–18	1,596,067
Essex-Newark Legal Services Project	NJ	NJ–8	813,472
South Jersey Legal Services	NJ	NJ–12	666,164
Central Jersey Legal Services	NJ	NJ–17	1,071,251
DNA-People's Legal Services	NM	NM–1	185,008
DNA-People's Legal Services	NM	NNM–2	22,267
New Mexico Legal Aid	NM	MNM	85,416
New Mexico Legal Aid	NM	NM–5	2,511,494
New Mexico Legal Aid	NM	NNM–4	455,412
Nevada Legal Services	NV	NNV–1	130,334
Nevada Legal Services	NV	NV–1	2,629,748
Legal Aid Soc. of Northeastern New York	NY	NY–21	1,208,146
Neighborhood Legal Services	NY	NY–24	1,167,750
Nassau/Suffolk Law Services	NY	NY–7	1,136,762
Legal Services For New York City	NY	NY–9	10,872,825
Legal Assistance of Western New York	NY	NY–23	1,631,738
Legal Aid Society of Mid-New York	NY	MNY	270,711
Legal Aid Society of Mid-New York	NY	NY–22	1,551,218
Legal Services of the Hudson Valley	NY	NY–20	1,587,743
Community Legal Aid Services	OH	OH–20	1,899,507
Legal Aid Society of Greater Cincinnati	OH	OH–18	1,604,186
Legal Aid Society of Cleveland	OH	OH–21	2,132,000
Ohio State Legal Services	OH	OH–17	1,754,895
Ohio State Legal Services	OH	OH–5	1,672,149
Legal Aid of Western Ohio	OH	MOH	123,198
Legal Aid of Western Ohio	OH	OH–23	2,950,941
Oklahoma Indian Legal Services	OK	NOK–1	802,530
Legal Aid Services of Oklahoma	OK	MOK	61,203
Legal Aid Services of Oklahoma	OK	OK–3	4,119,852
Legal Aid Services of Oregon	OR	MOR	544,782
Legal Aid Services of Oregon	OR	NOR–1	180,935
Legal Aid Services of Oregon	OR	OR–6	3,516,844
Philadelphia Legal Assistance Center	PA	MPA	162,099
Philadelphia Legal Assistance Center	PA	PA–1	2,677,751
Laurel Legal Services	PA	PA–5	618,297
MidPenn Legal Services	PA	PA–25	2,258,154
Neighborhood Legal Services Association	PA	PA–8	1,365,336
North Penn Legal Services	PA	PA–24	1,808,839
Southwestern Pennsylvania Legal Services	PA	PA–11	412,032
Northwestern Legal Services	PA	PA–26	680,858
Legal Aid of Southeastern Pennsylvania	PA	PA–23	1,086,949
Puerto Rico Legal Services	PR	MPR	284,348
Puerto Rico Legal Services	PR	PR–1	10,879,482

Name of applicant organization	State	Service area	Estimated annualized 2015 funding
Community Law Office	PR	PR–2	216,357
Rhode Island Legal Services	RI	RI–1	929,459
South Carolina Legal Services	SC	MSC	193,448
South Carolina Legal Services	SC	SC–8	5,381,826
East River Legal Services	SD	SD–2	376,995
Dakota Plains Legal Services	SD	NSD–1	915,161
Dakota Plains Legal Services	SD	SD–4	377,132
Legal Aid of East Tennessee	TN	TN–9	2,354,899
Memphis Area Legal Services	TN	TN–4	1,390,136
Legal Aid Society of Middle TN and the Cumberlands	TN	TN–10	3,009,229
West Tennessee Legal Services	TN	TN–7	678,373
Legal Aid of Northwest Texas	TX	TX–14	8,456,594
Lone Star Legal Aid	TX	TX–13	10,055,057
Texas RioGrande Legal Aid	TX	MSX–2	1,654,381
Texas RioGrande Legal Aid	TX	NTX–1	30,676
Texas RioGrande Legal Aid	TX	TX–15	10,032,517
Utah Legal Services	UT	MUT	66,338
Utah Legal Services	UT	NUT–1	80,637
Utah Legal Services	UT	UT–1	2,294,440
Legal Services of Northern Virginia	VA	VA–20	1,226,781
Southwest Virginia Legal Aid Society	VA	VA–15	700,087
Legal Aid Society of Eastern Virginia	VA	VA–16	1,120,340
Central Virginia Legal Aid Society	VA	MVA	154,246
Central Virginia Legal Aid Society	VA	VA–18	1,086,314
Virginia Legal Aid Society	VA	VA–17	831,158
Blue Ridge Legal Services	VA	VA–19	766,800
Legal Services of the Virgin Islands	VI	VI–1	161,307
Legal Services Law Line of Vermont	VT	VT–1	476,000
Northwest Justice Project	WA	MWA	713,874
Northwest Justice Project	WA	NWA–1	279,211
Northwest Justice Project	WA	WA–1	5,273,562
Legal Action of Wisconsin	WI	MWI	89,042
Legal Action of Wisconsin	WI	WI–5	3,800,229
Wisconsin Judicare	WI	NWI–1	152,042
Wisconsin Judicare	WI	WI–2	1,001,526
Legal Aid of West Virginia	WV	WV–5	2,203,349
Legal Aid of Wyoming	WY	NWY–1	169,372
Legal Aid of Wyoming	WY	WY–4	407,552

These grants and contracts will be awarded under the authority conferred on LSC by the Legal Services Corporation Act, as amended, 42 U.S.C. 2996e(a)(l). Awards will be made so that each service area is served, although no listed organization is guaranteed an award or contract. Grants will become effective and grant funds will be distributed on or about January 1, 2015.

This notice is issued pursuant to 42 U.S.C. 2996f(f). Comments and recommendations concerning potential grantees are invited, and should be delivered to LSC within thirty (30) days from the date of publication of this notice.

Dated: October 31, 2014.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2014–26251 Filed 11–4–14; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–009]

Advisory Committee on the Records of Congress

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. app 2), the National Archives and Records Administration announces the following meeting.

DATES: The meeting will be held on December 8, 2014, from 10:00 a.m. to 11:30 a.m., EDT.

ADDRESSES: Capitol Visitor Center, Senate Visitor Center, Room 212–10, Washington, DC 20510

FOR FURTHER INFORMATION CONTACT: Sharon Fitzpatrick, *sharon.fitzpatrick@nara.gov,* Center for Legislative Archives, (202) 357–5350.

SUPPLEMENTARY INFORMATION:

Agenda

(1) Chair's Opening Remarks—Clerk of the U.S. House of Representatives

(2) Recognition of Co-chair—Secretary of the U.S. Senate

(3) Recognition of the Archivist of the United States

(4) Approval of the minutes of the last meeting

(5) Senate Archivist's report—Karen Paul

(6) House Archivist's report—Robin Reeder

(7) Center Update—Richard Hunt

(8) Other current issues and new business

The meeting is open to the public.

Dated: October 30, 2014.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2014–26312 Filed 11–4–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Request for comments for Extension of a Currently Approved Collection; Request for Comment

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of request for comment.

SUMMARY: NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for renewal under the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. Chapter 35). This information collection notice is published to obtain comments from the public. Federally insured credit unions with more than $50 million in assets are required to have a written interest rate risk (IRR) policy and an effective IRR management program as a condition for insurance of accounts. The information collection is currently authorized under OMB Control Number 3133–0184, which expires on February 28, 2015. The information collection allows NCUA to determine whether a credit union's financial condition and policies regarding interest rate risk are both safe and sound and meet the requirements for insurance of accounts.

DATES: Comments will be accepted until January 5, 2015.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Amanda Wallace, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov*

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Amanda Wallace at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at *OCIOPRA@ncua.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

Section 741.3(b)(5) of NCUA Rules and Regulations (12 CFR 741.3(b)(5)) requires federally insured credit unions with more than $50 million in assets to have a written IRR policy and an effective IRR management program as a condition for insurance. In an appendix, the rule also provides guidance on how to establish an IRR policy and an effective program.

Guidance specifies that policies should cover the following areas:

- Identify committees, persons or other parties responsible for review of the credit union's IRR exposure;
- Direct appropriate actions to ensure management takes steps to manage IRR so that IRR exposures are identified, measured, monitored, and controlled;
- State the frequency with which management will report on measurement results to the board to ensure routine review of information that is timely (e.g., current and at least quarterly) and in sufficient detail to assess the credit union's IRR profile;
- Set risk limits for IRR exposures based on selected measures (e.g., limits for changes in repricing or duration gaps, income simulation, asset valuation, or net economic value);
- Choose tests, such as interest rate shocks, that the credit union will perform using the selected measures;
- Provide for periodic review of material changes in IRR exposures and compliance with board approved policy and risk limits;
- Provide for assessment of the IRR impact of any new business activities prior to implementation (e.g., evaluate the IRR profile of introducing a new product or service); and
- Provide for annual evaluation of policy to determine whether it is still commensurate with the size, complexity, and risk profile of the credit union.

NCUA requests that you send your comments on this collection to the location listed in the **ADDRESSES SECTION**. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden 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, such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the Paperwork Reduction Act unless it displays a currently valid OMB control number.

II. Data

Title: Requirement for Insurance—Interest Rate Risk Policy, 12 CFR 741.3(b)(5).

OMB Number: 3133—0184.

Form Number: None.

Type of Review: Extension with change of a currently approved collection.

Description: NCUA uses the information to evaluate credit unions' compliance with the rule and to determine credit unions' risk tolerances and consistency with their business strategies.

Respondents: Federally insured credit unions with assets of more than $50 million.

Estimated No. of Respondents/Recordkeepers: 225.

Estimated No. of Responses: 225.

Frequency of Response: Once, then annual review.

Estimated Time per Response: 16 hours.

Estimated Total Annual Burden: 3,600 hours.

By the National Credit Union Administration Board on October 30, 2014.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2014–26220 Filed 11–4–14; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Request for Comments for Extension of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection notice is published to obtain comments from the public. This is related to NCUA's regulation that prohibits, in certain circumstances, a federally insured credit union (FICU) from making golden parachute and indemnification payments to an institution-affiliated party (IAP).

DATES: Comments will be accepted until January 5, 2015.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Amanda Wallace, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Amanda Wallace at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at *OCIOPRA@ncua.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is extending a previously approved collection of information for 12 CFR Part 750, Golden Parachute and Indemnification Payments. Part 750 is NCUA's regulation that prohibits, in certain circumstances, a FICU from making golden parachute and indemnification payments to an IAP. The collection of information requirement applies to troubled FICUs seeking approval to make a severance or golden parachute payment to an IAP. Specifically, § 750.6 requires requests for an FICU to make nondiscriminatory severance plan payments under § 750.1(e)(2)(v) and golden parachute payments permitted by § 750.4 to be submitted in writing to NCUA.

In NCUA's experience, FICU requests to make severance and golden parachute payments within the scope of the rule do not occur often. NCUA estimates that, as of June 30, 2014, there are 6,429 FICUs. Of those, there were 278 problem FICUs with CAMEL 4 or 5 ratings. Of those, 229 FICUs had less than $50 million in total assets and an additional 22 FICUs had less than $100 million in total assets. These smaller FICUs are unlikely to seek NCUA approval to make severance or golden parachute payments because these payments are more typically seen in the executive compensation of larger, more complex FICUs. Of the remaining 27 larger problem FICUs, NCUA anticipates no more than 20 percent would seek NCUA approval to make a severance or golden parachute payment. Accordingly, NCUA estimates that on an annual basis and across all FICUs, only approximately five FICUs will need to solicit NCUA approval in advance of making a severance or golden parachute payment within the scope of the rule and that preparing the request for approval may take four hours. Five FICUs times four hours per respondent equals 20 annual burden hours.

NCUA requests that you send your comments on the information collection requirements under part 750 to the locations listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our 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 such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Golden Parachute and Indemnification Payments, 12 CFR Part 750.

OMB Number: 3133–0183.

Form Number: None.

Type of Review: Extension of a previously approved collection.

Description: Part 750 is NCUA's regulation prohibit, in certain circumstances, a FICU from making golden parachute and indemnification payments to an IAP. The collection of information requirement only affects troubled FICUs seeking approval to make a severance or golden parachute payment to an IAP. Specifically, § 750.6 requires requests for an FICU to make nondiscriminatory severance plan payments under § 750.1(e)(2)(v) and golden parachute payments permitted by § 750.4 to be submitted in writing to NCUA.

Respondents: Federally insured credit unions.

Estimated No. of Respondents: 5.

Frequency of Response: Upon request.

Estimated Burden Hours per Response: 4 hours.

Estimated Total Annual Burden Hours: 20.

Estimated Total Annual Cost: $800.

By the National Credit Union Administration Board on October 30, 2014.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2014–26219 Filed 11–4–14; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–039; NRC–2008–0603]

PPL Bell Bend, LLC; Combined License Application for Bell Bend Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in a response to a September 24, 2014, letter from PPL Bell Bend, LLC (PPL), which requested an exemption from Final Safety Analysis Report (FSAR) updates included in their Combined License (COL) application. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption, but stipulated that the updates to the FSAR must be submitted prior to, or coincident with, the resumption of the COL application safety review or by December 31, 2015, whichever comes first.

DATE: The exemption is effective on November 5, 2014.

ADDRESSES: Please refer to Docket ID NRC–2008–0603 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0603. 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: Michael Takacs, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7871; email: *Michael.Takacs@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 10, 2008, PPL submitted to the NRC a COL application for a single unit of AREVA NP's U.S. Evolutionary Power Reactor (EPR) (ADAMS Accession No. ML082890663) in accordance with the requirements of Subpart C of Part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' This reactor is to be constructed and operated as Bell Bend Nuclear Power Plant (BBNPP), in Luzerne County, Pennsylvania. The NRC docketed the BBNPP COL application on December 19, 2008 (Docket Number 52–039). Additionally, the BBNPP COL application incorporates by reference AREVA NP's application for a standard design certification for the U.S. EPR. The NRC is currently performing a review of the AREVA NP application for design certification of the U.S. EPR.

II. Request/Action

The regulations at 10 CFR 50.71(e)(3)(iii) require that an applicant for a COL under 10 CFR Part 52 shall, during the period from docketing of a COL application until the Commission makes a finding under 10 CFR 52.103(g) pertaining to facility operation, submit an annual update to the application's FSAR, which is Part 2 of the COL application. Pursuant to 10 CFR 50.71(e)(3)(iii), the next annual update of the FSAR included in the BBNPP COL application would be due by December 31, 2014.

On January 9, 2014, PPL submitted a request to place the safety review of the BBNPP COL application on hold until further notice (ADAMS Accession No. ML14030A074). As a result of the safety review being placed on hold, no informational updates to the FSAR have occurred during this time. On September 24, 2014, PPL requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the BBNPP COL application FSAR update in calendar year 2014 (ADAMS Accession No. ML14280A540).

The PPL's requested exemption is a one-time schedule change from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow PPL to submit the next FSAR update at a later date but no later than December 31, 2015. The current requirement to submit an FSAR update could not be changed, absent the exemption.

III. Discussion

Pursuant to 10 CFR 50.12, the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, including 10 CFR 50.71(e)(3)(iii) when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: (1) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)); or (2) the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation (10 CFR 50.12(a)(2)(v)).

The purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to-date information regarding the COL application, in order to perform an efficient and effective review. The rule targeted those applications that are being actively reviewed by the NRC. As requested by PPL in the above referenced letter dated January 9, 2014, the NRC placed the safety review portion of the BBNPP COL application on hold until further notice. Therefore, updating the BBNPP FSAR would only cause undue hardship on PPL, and the purpose of 10 CFR 50.71(e)(3)(iii) would still be achieved so long as the next update is submitted by December 31, 2015.

The requested exemption to defer submittal of the next update to the FSAR included in the BBNPP COL application would provide only temporary relief from the regulations of 10 CFR 50.71(e)(3)(iii).

Authorized by Law

The exemption is a one-time schedule exemption from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow PPL to submit the next BBNPP COL application FSAR update on or before December 31, 2015. Per 10 CFR 50.12, the NRC staff has determined that granting PPL the requested one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) will provide only temporary relief from this regulation and will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. The requested exemption is solely administrative in nature, in that it pertains to the schedule for submittal to the NRC of revisions to an application under 10 CFR Part 52, for which a license has not been granted. Based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; therefore, neither the probability, nor the consequences, of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The requested exemption would allow PPL to submit the next FSAR update on or before December 31, 2015. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2), are present whenever: (1) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)); or (2) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation (10 CFR 50.12(a)(2)(v)).

As discussed above, the requested one-time exemption is solely administrative in nature, in that it pertains to a one-time schedule change for submittal of revisions to an application under 10 CFR Part 52, for which a license has not been granted. This one-time exemption will support the NRC staff's effective and efficient review of the BBNPP COL application, when resumed, as well as issuance of the NRC staff's safety evaluation report. For this reason, application of 10 CFR 50.71(e)(3)(iii) in the particular circumstances is not necessary to achieve the underlying purpose of that rule. Therefore, special circumstances exist under 10 CFR 50.12(a)(2)(ii). In addition, special circumstances are also present under 10 CFR 50.12(a)(2)(v) because granting a one-time exemption from 10 CFR 50.71(e)(3)(iii) would provide only temporary relief. For the above reasons, the special circumstances required by 10 CFR

50.12(a)(2) for the granting of an exemption from 10 CFR 50.71(e)(3)(iii) exist.

Eligibility for Categorical Exclusion From Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25). Under 10 CFR 51.22(c)(25), granting of an exemption from the requirements of any regulation of 10 CFR Chapter 1 (which includes 10 CFR 50.71(e)(3)(iii)) is an action that is a categorical exclusion, provided that:

(i) There is no significant hazards consideration;

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

(iv) There is no significant construction impact;

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

(vi) The requirements from which an exemption is sought involve:

(A) Recordkeeping requirements;

(B) Reporting requirements;

(C) Inspection or surveillance requirements;

(D) Equipment servicing or maintenance scheduling requirements;

(E) Education, training, experience, qualification, requalification or other employment suitability requirements;

(F) Safeguard plans, and materials control and accounting inventory scheduling requirements;

(G) Scheduling requirements;

(H) Surety, insurance or indemnity requirements; or

(I) Other requirements of an administrative, managerial, or organizational nature.

The requirements from which this exemption is sought involve only ''(B) Reporting requirements'' or ''(G) Scheduling requirements'' of those required by 10 CFR 51.22(c)(25)(vi).

The NRC staff's determination that each of the applicable criteria for this categorical exclusion is met as follows:

I. 10 CFR 51.22(c)(25)(i): There is no significant hazards consideration.

Staff Analysis: The criteria for determining if an exemption involves a significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application for which only the environmental portion of the licensing review is currently underway. Therefore, there are no significant hazard considerations because granting the proposed exemption would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

II. 10 CFR 51.22(c)(25)(ii): There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

Staff Analysis: The proposed action involves only a schedule change, which is administrative in nature, and does not involve any changes in the types or significant increase in the amounts of effluents that may be released offsite.

III. 10 CFR 51.22(c)(25)(iii): There is no significant increase in individual or cumulative public or occupational radiation exposure.

Staff Analysis: Since the proposed action involves only a schedule change, which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

IV. 10 CFR 51.22(c)(25)(iv): There is no significant construction impact.

Staff Analysis: The proposed action involves only a schedule change which is administrative in nature. While the environmental portion of the application review is underway, the safety portion of the COL application review is on hold and no license will be issued prior to receipt of the aforementioned application's December 31, 2015, submittal of the revised FSAR; therefore, the proposed action does not involve any construction impact.

V. 10 CFR 51.22(c)(25)(v): There is no significant increase in the potential for or consequences from radiological accidents.

Staff Analysis: The proposed action involves only a schedule change which is administrative in nature and does not impact the probability or consequences of accidents.

VI. 10 CFR 51.22(c)(25)(vi): The requirements from which this exemption is sought involve only ''(B) Reporting requirements'' or ''(G) Scheduling requirements.''

Staff Analysis: The exemption request involves requirements in both of these categories because it involves submitting an updated COL FSAR by December 31, 2015, and also relates to the schedule for submitting COL FSAR updates to the NRC.

IV. Conclusion

The NRC has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances exist under 10 CFR 50.12(a)(2)(ii). This one-time exemption will support the NRC staff's effective and efficient review of the COL application, when resumed, as well as issuance of the NRC staff's safety evaluation report. Therefore, the NRC hereby grants PPL a one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the BBNPP COL application to allow submittal of the next FSAR update on or before December 31, 2015.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of October 2014.

For The Nuclear Regulatory Commission.

Frank Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2014–26313 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–043; NRC–2014–0149]

Early Site Permit for the PSEG Site

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental impact statement; extension of comment period.

SUMMARY: On August 22, 2014, the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Army Corps of Engineers (USACE) published for public comment a draft environmental impact statement (EIS), NUREG–2168, ''Draft Environmental Impact Statement for the Early Site Permit (ESP) for the PSEG Site.'' The PSEG Site is located in Salem County, New Jersey. The public comment period was to have ended on November 6, 2014. The NRC has decided to extend the public comment period for 30 days to allow more time for members of the public to develop and submit their comments.

DATES: The comment period for the draft EIS (79 FR 49820; August 22, 2014) has been extended to December 6, 2014.

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

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0149. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Allen Fetter, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–8556, email: *Allen.Fetter@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0149, when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for NRC Docket ID NRC–2014–0149.

• *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 draft EIS and an accompanying reader's guide are available in ADAMS under Accession No. ML14219A304.

• *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.

• *Project Web site:* The draft EIS can be accessed online at the PSEG ESP specific Web page at *http://www.nrc.gov/reactors/new-reactors/esp/pseg.html.*

• *Salem Free Public Library:* The draft EIS is available for public inspection at 112 West Broadway, Salem, New Jersey, 08079.

B. Submitting Comments

Please include Docket ID NRC–2014–0149 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

The application submitted by PSEG Power, LLC, and PSEG Nuclear, LLC (PSEG), for an ESP was submitted by letter dated May 25, 2010 (ADAMS Accession No. ML101480484), pursuant to Part 52 of Title 10 of the *Code of Federal Regulations.* A notice of receipt and availability of the application, which included the environmental report, was published in the **Federal Register** on June 18, 2010 (75 FR 34794). A notice of acceptance for docketing of the ESP application was published in the **Federal Register** on August 13, 2010 (75 FR 49539). A notice of intent to prepare a draft environmental impact statement (EIS) and to conduct the scoping process was published in the **Federal Register** on October 15, 2010 (75 FR 63521). On August 22, 2014, the NRC and USACE published for public comment the draft EIS in the **Federal Register** (79 FR 49820). The purpose of this solicitation was to obtain public comments on the draft EIS for NRC staff to consider in preparing the final EIS. The public comment period was to have ended on November 6, 2014. Extensions to the 75-day comment period may be provided at the discretion of the NRC staff if special circumstances are present. The NRC staff has determined that special circumstances exist that support extending this comment period. Those special circumstances include the recent identification of some individuals and organizations with special knowledge and expertise in the area of environmental justice that had not been aware of the original notice and other outreach efforts. In order to gain additional information on any minority or low-income populations that might be disproportionately affected, the NRC has determined that it is prudent, in this instance, to extend the public comment period on this document until December 6, 2014, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, this 30th day of October, 2014.

For the Nuclear Regulatory Commission.

Frank Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2014–26301 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305; NRC–2014–0219]

Dominion Energy Kewaunee, Inc.; Kewaunee Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: Kewaunee Power Station (KPS) is a decommissioning nuclear power reactor that permanently shut down on May 7, 2013, and permanently defueled on May 14, 2013. In response to a request from Dominion Energy Kewaunee, Inc. (DEK or the licensee), the U.S. Nuclear Regulatory Commission (NRC) is granting exemptions from certain emergency planning (EP) requirements. The exemptions will eliminate the requirements to maintain offsite radiological emergency plans and reduce the scope of the onsite emergency planning activities at the Kewaunee Power Station (KPS) based on the reduced risks of accidents that could result in an offsite radiological

release when compared to operating power reactors. The exemptions will continue to maintain requirements for onsite radiological emergency planning and include provisions for capabilities to communicate and coordinate with offsite response authorities. The NRC staff has concluded that the exemptions being granted by this action will maintain an acceptable level of emergency preparedness at KPS given its permanently shutdown and defueled status, and that there is reasonable assurance that adequate offsite protective measures can and will be taken by State and local government agencies, if needed, in the event of a radiological emergency at the KPS facility.

ADDRESSES: Please refer to Docket ID NRC–2014–0219 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0219. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS Accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

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

FOR FURTHER INFORMATION CONTACT: William Huffman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2046; email: *William.Huffman@nrc.gov.*

I. Background

The KPS facility is a decommissioning power reactor located on approximately 900 acres in Carlton (Kewaunee County), Wisconsin, 27 miles southeast of Green Bay, Wisconsin. The licensee, DEK, is the holder of KPS Renewed Facility Operating License No. DPR–43. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect.

By letter dated February 25, 2013 (ADAMS Accession No. ML13058A065), DEK submitted a certification to the NRC indicating it would permanently cease power operations at KPS on May 7, 2013. On May 7, 2013, DEK permanently shut down the KPS reactor. On May 14, 2013, DEK certified that it had permanently defueled the KPS reactor vessel (ADAMS Accession No. ML13135A209). As a permanently shutdown and defueled facility, and in accordance with § 50.82(a)(2) of Title 10 of the *Code of Federal Regulations* (10 CFR), KPS is no longer authorized to operate the reactor or emplace nuclear fuel into the reactor vessel. Kewaunee Power Station is still authorized to possess and store irradiated nuclear fuel. Irradiated fuel is currently being stored onsite in a spent fuel pool (SFP) and in Independent Spent Fuel Storage Installation (ISFSI) dry casks.

During normal power reactor operations, the forced flow of water through the reactor coolant system (RCS) removes heat generated by the reactor. The RCS, operating at high temperatures and pressures, transfers this heat through the steam generator tubes converting non-radioactive feedwater to steam, which then flows to the main turbine generator to produce electricity. Many of the accident scenarios postulated in the updated safety analysis reports (USARs) for operating power reactors involve failures or malfunctions of systems which could affect the fuel in the reactor core, which in the most severe postulated accidents, would involve the release of large quantities of fission products. With the permanent cessation of reactor operations at KPS and the permanent removal of the fuel from the reactor core, such accidents are no longer possible. The reactor, RCS, and supporting systems are no longer in operation and have no function related to the storage of the irradiated fuel. Therefore, postulated accidents involving failure or malfunction of the reactor, RCS, or supporting systems are no longer applicable.

Since KPS is permanently shutdown and defueled, the only design basis accident that could potentially result in an offsite radiological release at KPS is the fuel handling accident. Analysis performed by DEK showed that 90 days after KPS permanently shutdown, the radiological consequence of the fuel handling accident would not exceed the limits established by the U.S. Environmental Protection Agency's (EPA's) Protective Action Guidelines (PAGs) at the exclusion area boundary. Based on the time that KPS has been permanently shutdown (approximately 17 months), there is no longer any possibility of an offsite radiological release from a design basis-accident that could exceed the EPA PAGs.

The EP requirements of 10 CFR 50.47, ''Emergency plans,'' and Appendix E to 10 CFR Part 50, ''Emergency Planning and Preparedness for Production and Utilization Facilities,'' continue to apply to nuclear power reactors that have permanently ceased operation and have removed all fuel from the reactor vessel. There are no explicit regulatory provisions distinguishing EP requirements for a power reactor that is permanently shutdown and defueled from a reactor that is authorized to operate. In order for DEK to modify the KPS emergency plan to reflect the reduced risk associated with the permanently shutdown and defueled condition of KPS, certain exemptions from the EP regulations must be obtained before the KPS emergency plan can be amended.

II. Request/Action

By letter dated July 31, 2013, ''Request for Exemptions from Portions of 10 CFR 50.47 and 10 CFR Part 50, Appendix E'' (ADAMS Accession No. ML13221A182), DEK requested exemptions from certain EP requirements of 10 CFR Part 50 for KPS. More specifically, DEK requested exemptions from certain planning standards in 10 CFR 50.47(b) regarding onsite and offsite radiological emergency plans for nuclear power reactors; from certain requirements in 10 CFR 50.47(c)(2) that require establishment of plume exposure and ingestion pathway emergency planning zones for nuclear power reactors; and from certain requirements in 10 CFR Part 50, Appendix E, Section IV, which establishes the elements that make up the content of emergency plans. In a letter dated December 11, 2013 (ADAMS Accession No. ML13351A040), DEK provided responses to the NRC staff's request for additional information (RAI) concerning the proposed exemptions. In a letter dated January 10, 2014, DEK

provided a supplemental response to the RAI (ADAMS Accession No. ML14016A078), which contained information applicable to the SFP inventory makeup strategies for mitigating the potential loss of water inventory due to a beyond design-basis accident. The information provided by DEK included justifications for each exemption requested. The exemptions requested by DEK will eliminate the requirements to maintain offsite radiological emergency plans, reviewed by the Federal Emergency Management Agency (FEMA) under the requirements of 44 CFR Part 350, and reduce the scope of onsite emergency planning activities. DEK stated that application of all of the standards and requirements in 10 CFR 50.47(b), 10 CFR 50.47(c) and 10 CFR Part 50, Appendix E is not needed for adequate emergency response capability based on the reduced risks at the permanently shutdown and defueled facility. If offsite protective actions where needed for a very unlikely accident that could challenge the safe storage of spent fuel at KPS, provisions exist for offsite agencies to take protective actions using a comprehensive emergency management plan (CEMP) under the National Preparedness System to protect the health and safety of the public. A CEMP in this context, also referred to as an emergency operations plan (EOP), is addressed in FEMA Comprehensive Preparedness Guide 101, ''Developing and Maintaining Emergency Operations Plans.'' Comprehensive Preparedness Guide 101 is the foundation for State, territorial, Tribal, and local emergency planning in the United States. It promotes a common understanding of the fundamentals of risk-informed planning and decision making and helps planners at all levels of government in their efforts to develop and maintain viable, all-hazards, all-threats emergency plans. An EOP is flexible enough for use in all emergencies. It describes how people and property will be protected; details who is responsible for carrying out specific actions; identifies the personnel, equipment, facilities, supplies and other resources available; and outlines how all actions will be coordinated. A comprehensive emergency management plan is often referred to as a synonym for ''all hazards planning.''

III. Discussion

In accordance with 10 CFR 50.12, ''Specific exemptions,'' the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) any of the special circumstances listed in 10 CFR 50.12(a)(2) are present. These special circumstances include, among other things, that the application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

As noted previously, the current EP regulations contained in 10 CFR 50.47(b) and Appendix E to 10 CFR Part 50 apply to both operating and shutdown power reactors. The NRC has consistently acknowledged that the risk of an offsite radiological release at a power reactor that has permanently ceased operations and removed fuel from the reactor vessel is significantly lower, and the types of possible accidents are significantly fewer, than at an operating power reactor. However, EP regulations are silent with regard to the fact that once a power reactor permanently ceases operation, the consequences of credible emergency accident scenarios are reduced. The reduced risks generally relate to a decrease in the potential for any significant offsite radiological release based on the preclusion of accidents applicable to an operating power reactor and on the reduced decay heat, and the decay of short-lived radionuclides as spent fuel ages. NUREG–1738, ''Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants,'' dated February 2001 (ADAMS Accession No. ML010430066), confirmed that for permanently shutdown and defueled power reactors bounded by the assumptions and conditions in the report, the risk of offsite radiological release is significantly less than for an operating power reactor.

Similar to the EP exemptions requested by DEK, prior EP exemptions granted to permanently shutdown and defueled power reactors did not relieve the licensees of all EP requirements. Rather, the exemptions allowed the licensees to modify their emergency plans commensurate with the credible site-specific risks that were consistent with a permanently shutdown and defueled status. Specifically, precedent for the approval of the exemptions from certain EP requirements for previous permanently shutdown and defueled power reactors were based on demonstrating that: (1) The radiological consequences of design-basis accidents would not exceed the limits of the EPA PAGs at the exclusion area boundary, and; (2) in the unlikely event of a beyond design-basis accident resulting in a loss of all modes of heat transfer from the fuel stored in the SFP, there is sufficient time to initiate appropriate mitigating actions, and if needed, for offsite authorities to implement offsite protective actions using a CEMP approach to protect the health and safety of the public.

With respect to design-basis accidents at KPS, the licensee provided analysis demonstrating that 90 days after KPS was permanently shutdown, the radiological consequences of the only remaining design-basis accident with potential for offsite radiological release (the fuel handling accident) will not exceed the limits of the EPA PAGs at the exclusion area boundary. Therefore, because KPS has been permanently shutdown for approximately 17 months, there is no longer any design-basis accident that would warrant an offsite radiological emergency plan meeting the requirements of 10 CFR Part 50.

With respect to beyond design-basis accidents at KPS, the licensee analyzed the two bounding beyond design-basis accidents that have a potential for a significant offsite release. One of these beyond design-basis accidents involves a complete loss of SFP water inventory, where cooling of the spent fuel would be primarily accomplished by natural circulation of air through the uncovered spent fuel assemblies. The licensee's analysis of this accident shows that by October 30, 2014, air cooling of the spent fuel assemblies will be sufficient to keep the fuel within a safe temperature range indefinitely without fuel damage or offsite radiological release. The other beyond design-basis accident analysis performed by the licensee could not completely rule out the possibility of a radiological release from a SFP. This more limiting analysis assumes an incomplete drain down of the SFP water, or some other catastrophic event (such as a complete drainage of the SFP with rearrangement of spent fuel rack geometry and/or the addition of rubble to the SFP), that would effectively impede any decay heat removal through all possible modes of cooling. The licensee's analysis demonstrates that as of October 21, 2014, there would be at least 10 hours after the loss of all cooling means considered in the analysis for the described beyond design-basis accident, before the spent fuel cladding would reach a temperature where the potential for a significant offsite radiological release could occur. This analysis conservatively does not consider the period of time from the initiating event

causing a loss of SFP water inventory until all cooling means are lost.

The NRC staff has verified DEK's analyses and its calculations. The analyses provide reasonable assurance that in granting the requested exemption to DEK, there is no design-basis accident that will result in an offsite radiological release exceeding the EPA PAGs at the site boundary. In the unlikely event of a beyond design-basis accident affecting the SFP that results in a complete loss of heat removal via all modes of heat transfer, there will be at least 10 hours available before an offsite release might occur and, therefore, at least 10 hours to initiate appropriate mitigating actions to restore a means of heat removal to the spent fuel. If a radiological release were projected to occur under this unlikely scenario, a minimum of 10 hours is considered sufficient time for offsite authorities to implement protective actions using a CEMP approach to protect the health and safety of the public.

The NRC staff reviewed the licensee's justification for the requested exemptions against the criteria in 10 CFR 50.12(a), in addition to considering the basis for prior EP exemption requests as discussed above, to determine whether the exemptions should be granted. After evaluating the exemption requests, the staff determined, as described below, that the criteria in 10 CFR50.12(a) are met, and that the exemptions should be granted. Assessment of the DEK EP exemptions is described in SECY–14–0066, ''Request by Dominion Energy Kewaunee, Inc. for Exemptions from Certain Emergency Planning Requirements,'' dated June 27, 2014 (ADAMS Accession No. ML14072A257). The Commission approved the NRC staff's intention to grant the exemptions in the staff requirements memorandum (SRM) to SECY–14–0066, dated August 7, 2014 (ADAMS Accession No. ML14219A366). Descriptions of the specific exemptions being granted to DEK, with the NRC staff's basis for granting each exemption, are provided in SECY–14–0066 and summarized in a table at the end of this document. The staff's detailed review and technical basis for the approval of the specific EP exemptions being granted to DEK are provided in the NRC staff's safety evaluation enclosed in NRC letter dated October 27, 2014 (ADAMS Accession No. ML14261A223).

A. Authorized by Law

The licensee has proposed exemptions from certain EP requirements in 10 CFR 50.47(b), 10 CFR 50.47(c)(2), and 10 CFR Part 50, Appendix E, Section IV, that would allow DEK to revise the KPS Emergency Plan to reflect the permanently shutdown and defueled condition of the station. As stated above, in accordance with 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting of the licensee's proposed exemptions will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemptions are authorized by law.

B. No Undue Risk to Public Health and Safety

As stated previously, DEK provided analyses that show the radiological consequences of design-basis accidents will not exceed the limits of the EPA PAGs at the exclusion area boundary. Therefore, offsite radiological emergency plans required under 10 CFR Part 50 are no longer needed for protection of the public beyond the exclusion area boundary based on the radiological consequences of design-basis accidents still possible at KPS.

Although very unlikely, there are postulated beyond design-basis accidents that might result in significant offsite radiological releases. However, NUREG–1738 confirms that the risk of beyond design-basis accidents is greatly reduced at permanently shutdown and defueled reactors. The staff's analyses in NUREG–1738 concludes that the event sequences important to risk at permanently shutdown and defueled power reactors are limited to large earthquakes and cask drop events. For EP assessments, this is an important difference relative to operating power reactors where typically a large number of different sequences make significant contributions to risk. Per NUREG–1738, relaxation of offsite EP requirements under 10 CFR Part 50 a few months after shutdown resulted in only a small change in risk. The report further concludes that the change in risk due to relaxation of offsite EP requirements is small because the overall risk is low, and because even under current EP requirements for operating power reactors, EP was judged to have marginal impact on evacuation effectiveness in the severe earthquakes that dominate SFP risk. All other sequences including cask drops (for which offsite radiological emergency plans are expected to be more effective) are too low in likelihood to have a significant impact on risk.

Therefore, granting exemptions eliminating the requirements of 10 CFR 50 to maintain offsite radiological emergency plans and reducing the scope of onsite emergency planning activities will not present an undue risk to the public health and safety.

C. Consistent With the Common Defense and Security

The requested exemptions by DEK only involve EP requirements under 10 CFR Part 50 and will allow DEK to revise the KPS Emergency Plan to reflect the permanently shutdown and defueled condition of the facility. Physical security measures at KPS are not affected by the requested EP exemptions. The discontinuation of offsite radiological emergency plans and the reduction in scope of the onsite emergency planning activities at KPS will not adversely affect DEK's ability to physically secure the site or protect special nuclear material. Therefore, the proposed exemptions are consistent with the common defense and security.

D. Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.47(b), 10 CFR 50.47(c)(2), and 10 CFR Part 50, Appendix E, Section IV, is to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency, to establish plume exposure and ingestion pathway emergency planning zones for nuclear power plants, and to ensure that licensees maintain effective offsite and onsite radiological emergency plans. The standards and requirements in these regulations were developed by considering the risks associated with operation of a power reactor at its licensed full-power level. These risks include the potential for a reactor accident with offsite radiological dose consequences.

As discussed previously, because KPS is permanently shutdown and defueled, there is no longer a risk of offsite radiological release from a design-basis accident and the risk of a significant offsite radiological release from a beyond design-basis accident is greatly reduced when compared to an operating power reactor. The NRC staff has confirmed the reduced risks at KPS by comparing the generic risk assumptions in the analyses in NUREG–1738 to site specific conditions at KPS and determined that the risk values in NUREG–1738 bound the risks presented by KPS. Furthermore, the staff has

recently concluded in NUREG–2161, ''Consequence Study of a Beyond-Design-Basis Earthquake Affecting the Spent Fuel Pool for a U.S. Mark I Boiling Water Reactor,'' dated September 2014 (ADAMS Accession No. ML14255A365), that, consistent with earlier research studies, SFPs are robust structures that are likely to withstand severe earthquakes without leaking cooling water and potentially uncovering the spent fuel. The NUREG–2161 study shows the likelihood of a radiological release from the spent fuel after the analyzed severe earthquake at the reference plant to be about one time in 10 million years or lower.

The licensee has analyzed site-specific beyond design-basis accidents to determine the risk of a significant offsite radiological release. In one such analysis, DEK determined that if all the normal cooling systems used to cool the SFP were lost and not restored for the duration of the postulated accident, then as of September 20, 2014, the SFP at the KPS would take 120 hours before it would begin to boil and, due to the loss of SFP water level from the resulting boil off, it would take 26 days for the water inventory to lower to a level of three feet from the top of the fuel. Additionally, DEK analysis shows that as of October 30, 2014, in the event of a complete SFP drain down due to a loss of water inventory, assuming natural circulation of air through the spent fuel racks was available, then the peak fuel clad temperature would remain below 1049 °F (565 °C), the temperature at which incipient cladding failure may occur. Therefore, in this postulated accident, fuel cladding remains intact and an offsite radiological release would not take place.

The only beyond design-basis accident analysis that reached a condition where a significant offsite release might occur involved a scenario where the SFP drained in such a way that all modes of cooling or heat transfer are assumed to be unavailable. This results in an adiabatic heat-up of the spent fuel. DEK analysis of this beyond design-basis accident shows that as of October 21, 2014, a minimum of 10 hours would be available between the time the fuel is uncovered (at which time adiabatic heat-up begins), until the fuel cladding reaches a temperature of 1652 °F (900 °C), the temperature associated with rapid cladding oxidation and the potential for a significant radiological release.

Exemptions from the offsite EP requirements in 10 CFR 50 have previously been approved by the NRC when the site-specific analyses show that at least 10 hours is available following a loss of SFP coolant inventory accident with no air cooling (or other methods of removing decay heat) until cladding of the hottest fuel assembly reaches the zirconium rapid oxidation temperature. The staff concluded in its previously granted exemptions, as it does with the DEK requested EP exemptions, that if a minimum of 10 hours is available to initiate mitigative actions consistent with plant conditions, or if needed, for offsite authorities to implement protective actions using a CEMP approach, then offsite radiological emergency plans, required under 10 CFR Part 50, are not necessary at permanently shutdown and defueled power reactor licensees.

Additionally, DEK committed to enhanced SFP makeup strategies in its letter to the NRC dated August 23, 2014 (ADAMS Accession No. ML13242A019). The multiple strategies for providing makeup to the SFP include: Using existing plant systems for inventory makeup; supplying water through hoses to a spool piece connection to the existing SFP piping; or using a diesel-driven portable pump to take suction from Lake Michigan and provide makeup or spray to the SFP. These strategies will continue to be required as a license condition. DEK further provides that the equipment needed to perform these actions will continue to be located onsite, and that the external makeup strategy (using a diesel driven portable pump) is capable of being deployed within 2 hours. Considering the very low probability of beyond design-basis accidents affecting the SFP, these diverse strategies provide defense-in-depth and time to provide makeup or spray to the SFP before the onset of any postulated offsite radiological release.

For all the reasons stated above, the staff finds that the licensee's requested exemptions to meet the underlying purpose of all of the standards in 10 CFR 50.47(b), and requirements in 10 CFR 50.47(c)(2) and Appendix E, acceptably satisfy the special circumstances in 10 CFR 50.12(a)(2)(ii) in view of the greatly reduced risk of offsite radiological consequences associated with the permanently shutdown and defueled state of the KPS facility.

The NRC staff has concluded that the exemptions being granted by this action will maintain an acceptable level of emergency preparedness at KPS and, if needed, that there is reasonable assurance that adequate offsite protective measures can and will be taken by State and local government agencies using a CEMP approach in the event of a radiological emergency at the KPS facility. Since the underlying purposes of the rules, as exempted, would continue to be achieved, even with the elimination of the requirements under 10 CFR Part 50 to maintain offsite radiological emergency plans and reduction in the scope of the onsite emergency planning activities at KPS, the special circumstances required by 10 CFR 50.12(a)(2)(ii) exist.

E. Environmental Considerations

In accordance with 10 CFR 51.31(a), the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as discussed in the NRC staff's Finding of No Significant Impact and associated Environmental Assessment published October 7, 2014 (79 FR 60513).

V. Conclusions

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that DEK's request for exemptions from certain EP requirements in 10 CFR 50.47(b), 10 CFR 50.47(c)(2), and 10 CFR Part 50, Appendix E, Section IV, and as summarized in the table at the end of this document, are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants DEK exemptions from certain EP requirements of 10 CFR 50.47(b), 10 CFR 50.47(c)(2), and 10 CFR Part 50, Appendix E, Section IV, as discussed and evaluated in detail in the staff's safety evaluation dated October 27, 2014. The exemptions are effective as of October 30, 2014.

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

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

IV—TABLE OF EXEMPTIONS GRANTED TO DEK

10 CFR 50.47	NRC staff basis for exemption
10 CFR 50.47(b) ..... The NRC is granting exemption from portions of the rule language that would otherwise require offsite emergency response plans.	In the Statement of Considerations (SOC) for the final rule for emergency planning (EP) requirements for independent spent fuel storage installations (ISFSIs) and for monitor retrievable storage installations (MRS) (60 **Federal Register** (FR) 32430; June 22, 1995), the Commission responded to comments concerning offsite EP for ISFSIs or an MRS and concluded that, ''the offsite consequences of potential accidents at an ISFSI or a MRS would not warrant establishing Emergency Planning Zones [EPZ].'' In a nuclear power reactor's permanently defueled state, the accident risks are more similar to an ISFSI or MRS than an operating nuclear power plant. The EP program would be similar to that required for an ISFSI under Section 72.32(a) of Title 10 of the *Code of Federal Regulations* (10 CFR) when fuel stored in the spent fuel pool (SFP) has more than 5 years of decay time and would not change substantially when all the fuel is transferred from the SFP to an onsite ISFSI. Exemptions from offsite EP requirements have previously been approved when the site-specific analyses show that at least 10 hours is available from a partial drain-down event where cooling of the spent fuel is not effective until the hottest fuel assembly reaches 900 °C. The technical basis that underlied the approval of the exemption request is based partly on the analysis of a time period that spent fuel stored in the SFP is unlikely to reach the zirconium ignition temperature in less than 10 hours. This time period is based on a heat-up calculation which uses several simplifying assumptions. Some of these assumptions are conservative (adiabatic conditions), while others are non-conservative (no oxidation below 900 °C). Weighing the conservatisms and non-conservatisms, the NRC staff judges that this calculation reasonably represents conditions which may occur in the event of an SFP accident. The staff concluded that if 10 hours were available to initiate mitigative actions, or if needed, offsite protective actions using a comprehensive emergency management plan (CEMP), formal offsite radiological emergency plans are not necessary for these permanently defueled nuclear power reactor licensees. As supported by the licensee's SFP analysis, the NRC staff believes an exemption to the requirements for formal offsite radiological emergency plans is justified for a zirconium fire scenario considering the low likelihood of this event together with time available to take mitigative or protective actions between the initiating event and before the onset of a postulated fire. The Dominion Energy Kewaunee, Inc. (DEK) analysis has demonstrated that 90 days after shutdown, the radiological consequences of design-basis accidents will not exceed the limits of the U.S. Environmental Protection Agency's (EPA) Protective Action Guidelines (PAGs) at the exclusion area boundary. These analyses also show that after the spent fuel has decayed for 17 months, for beyond-design-basis events where the SFP is drained, air cooling will prevent the fuel from reaching the lowest temperature where incipient cladding failure may occur (565 °C). In the event that air cooling is not possible, 10 hours is available to take mitigative or, if needed, offsite protective actions using a CEMP from the time the fuel is uncovered until it reaches the auto-ignition temperature of 900 °C. DEK has also furnished information on its SFP inventory makeup strategies for mitigating the loss of water inventory. The multiple strategies for providing makeup to the SPF include: using existing plant systems for inventory makeup; supplying water via hoses to a spool piece connection to the existing SFP piping; or using a diesel-driven portable pump to take suction from Lake Michigan and provide makeup or spray to the SFP. DEK also stated that the tools and equipment needed to perform these actions are located on site and that the external makeup strategy (using a diesel driven portable pump) was able to be deployed within 2 hours. DEK believes these diverse strategies provide defense-in-depth and ample time to provide makeup or spray to the SFP prior to the onset of zirconium cladding ignition when considering very low probability of beyond design-basis events affecting the SFP.
10 CFR 50.47(b)(1) ..... The NRC is granting exemption from portions of the rule language that would otherwise require the need for Emergency Planning Zones (EPZs).	Refer to basis for 10 CFR 50.47(b).

IV—TABLE OF EXEMPTIONS GRANTED TO DEK—Continued

10 CFR 50.47	NRC staff basis for exemption
10 CFR 50.47(b)(3) ..... The NRC is granting exemption from portions of the rule language that would otherwise require the need for an Emergency Operations Facility.	Decommissioning power reactors present a low likelihood of any credible accident resulting in a radiological release together with the time available to take mitigative or, if needed, offsite protective actions using a CEMP between the initiating event and before the onset of a postulated fire. As such, an emergency operations facility would not be required. The ''nuclear island,'' control room, or other onsite location can provide for the communication and coordination with offsite organizations for the level of support required. Also refer to basis for 10 CFR 50.47(b).
10 CFR 50.47(b)(4) ..... The NRC is granting exemption from portions of the rule language that would otherwise require reference to formal offsite radiological emergency response plans.	Decommissioning power reactors present a low likelihood of any credible accident resulting in a radiological release together with the time available to take mitigative or if needed, offsite protective actions using a CEMP between the initiating event and before the onset of a postulated fire. As such, formal offsite radiological emergency response plans are not required. The Nuclear Energy Institute (NEI) document NEI 99–01, ''Development of Emergency Action Levels for Non-Passive Reactors'' (Revision 6), was found to be an acceptable method for development of emergency action levels (EALs) and was endorsed by the U.S. Nuclear Regulatory Commission (NRC) in a letter dated March 28, 2013 (ADAMS Accession No. ML12346A463). NEI 99–01 provides EALs for non-passive operating nuclear power reactors, permanently defueled reactors, and ISFSIs. Also refer to basis for 10 CFR 50.47(b).
10 CFR 50.47(b)(5) ..... The NRC is granting exemption from portions of the rule language that would otherwise require early notification of the public and a means to provide instructions to the public within the plume exposure pathway Emergency Planning Zone.	Refer to basis for 10 CFR 50.47(b).
10 CFR 50.47(b)(6) ..... The NRC is granting exemption from portions of the rule language that would otherwise require prompt communications with the public.	Refer to basis for 10 CFR 50.47(b).
10 CFR 50.47(b)(7) ..... The NRC is granting exemption from portions of the rule language that would otherwise require information to be made available to the public on a periodic basis about how they will be notified and what their initial protective actions should be.	Refer to basis for 10 CFR 50.47(b).
10 CFR 50.47(b)(9) ..... The NRC is granting exemption from portions of the rule language that would otherwise require the capability for monitoring offsite consequences.	Refer to basis for 10 CFR 50.47(b).
10 CFR 50.47(b)(10) ..... The NRC is granting exemption from portions of the rule language that would reduce the range of protective actions developed for emergency workers and the public. Consideration of evacuation, sheltering, or the use of potassium iodide will no longer be necessary. Evacuation times will no longer need to developed or updated. Protective actions for the ingestion exposure pathway EPZ will not need to be developed.	In the unlikely event of an SFP accident, the iodine isotopes, which contribute to an off-site dose from an operating reactor accident, are not present, so potassium iodide distribution would no longer serve as an effective or necessary supplemental protective action. The Commission responded to comments in its SOC for the final rule for emergency planning requirements for ISFSIs and MRS facilities (60 FR 32435), and concluded that, ''the offsite consequences of potential accidents at an ISFSI or an MRS would not warrant establishing Emergency Planning Zones.'' Additionally, in the SOC for the final rule for EP requirements for ISFSIs and for MRS facilities (60 FR 32430), the Commission responded to comments concerning site-specific EP that includes evacuation of surrounding population for an ISFSI not at a reactor site, and concluded that, ''The Commission does not agree that as a general matter emergency plans for an ISFSI must include evacuation planning.'' Also refer to basis for 10 CFR 50.47(b).
10 CFR 50.47(c)(2) ..... The NRC is granting exemption from portions of the rule language that would otherwise require the establishment of a 10 mile radius plume exposure pathway EPZ and a 50 mile radius ingestion pathway EPZ.	Refer to basis for 10 CFR 50.47(b)(10).

10 CFR Part 50, Appendix E, Section IV	NRC staff basis for exemption
10 CFR Part 50, App. E, Section IV 1 ..... The NRC is granting exemption from portions of the rule language that would otherwise require onsite protective actions during hostile action.	The EP Rule published in the **Federal Register** (76 FR 72560; November 23, 2011) amended certain requirements in 10 CFR Part 50. Among the changes, the definition of ''hostile action'' was added as an act directed toward a nuclear power plant or its personnel. This definition is based on the definition of ''hostile action'' provided in NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events.'' NRC Bulletin 2005–02 was not applicable to nuclear power reactors that have permanently ceased operations and have certified that fuel has been removed from the reactor vessel. The NRC excluded non-power reactors from the scope of ''hostile action'' at the time of the rulemaking because, as defined in 10 CFR 50.2, a non-power reactor is not considered a nuclear power reactor and a regulatory basis had not been developed to support the inclusion of non-power reactors within the scope of ''hostile action.'' Similarly, a decommissioning power reactor or an ISFSI is not a ''nuclear reactor'' as defined in 10 CFR Part 50. A decommissioning power reactor also has a low likelihood of a credible accident resulting in radiological releases requiring offsite protective measures. For all of these reasons, the staff concludes that a decommissioning power reactor is not a facility that falls within the scope of ''hostile action.'' Similarly, for security, risk insights can be used to determine which targets are important to protect against sabotage. A level of security commensurate with the consequences of a sabotage event is required and is evaluated on a site-specific basis. The severity of the consequences declines as fuel ages and, thereby, removes over time the underlying concern that a sabotage attack could cause offsite radiological consequences. Although, this analysis provides a justification for exempting KPS from ''hostile action'' related requirements, some EP requirements for security-based events are maintained. The classification of security-based events, notification of offsite authorities and coordination with offsite agencies under a CEMP concept are still required.
10 CFR Part 50, App. E, Section IV 2 ..... The NRC is granting exemption from portions of the rule language concerning the evacuation time analyses within the plume exposure pathway EPZ for the licensee's initial application	Refer to basis for 10 CFR 50.47(b)(10).
10 CFR Part 50, App. E, Section IV 3 ..... The NRC is granting exemption from portions of the rule language that would otherwise require use of NRC-approved evacuation time estimates (ETEs) and updates to State and local governments when developing protective action strategies.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.2.
10 CFR Part 50, App. E, Section IV 4 ..... The NRC is granting exemption from portions of the rule language that would otherwise require licensees to develop evacuation time estimates based on the most recent census data and submit the ETE analysis to the NRC prior to providing it to State and local government for developing protective action strategies.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.2.
10 CFR Part 50, App. E, Section IV 5 ..... The NRC is granting exemption from portions of the rule language that would otherwise require licensees to estimate the EPZ permanent resident population changes once a year between decennial censuses.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.2.
10 CFR Part 50, App. E, Section IV 6 ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to submit an updated ETE analysis to the NRC based on changes in the resident population that result in exceeding specific evacuation time increase criteria.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.2.
10 CFR Part 50, App. E, Section IV A.1 ..... The NRC is granting exemption from the word ''operating'' in the requirement to describe the normal plant organization.	Based on the permanently shutdown and defueled status of the reactor, a decommissioning reactor is not authorized to operate under 10 CFR 50.82(a). Because the licensee cannot operate the reactors, the licensee does not have a ''plant operating organization.''
10 CFR Part 50, App. E, Section IV A.3 ..... The NRC is granting exemption to the requirement to describe the licensee's headquarters personnel sent to the site to augment the onsite emergency response organization.	The number of staff at decommissioning sites is generally small but is commensurate with the need to safely store spent fuel at the facility in a manner that is protective of public health and safety. Decommissioning sites typically have a level of emergency response that does not require response by the licensee's headquarters personnel.

10 CFR Part 50, Appendix E, Section IV	NRC staff basis for exemption
10 CFR Part 50, App. E, Section IV A. 4 ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to identify a position and function within its organization which will carry the responsibility for making offsite dose projections.	Although, the likelihood of events that would result in doses in excess of the EPA PAGs to the public beyond the owner controlled area boundary based on the permanently shutdown and defueled status of the reactor is extremely low, the licensee still must be able to determine if a radiological release is occurring. If a release is occurring, then the licensee staff should promptly communicate that information to offsite authorities for their consideration. The offsite organizations are responsible for deciding what, if any, protective actions should be taken based on comprehensive emergency planning.
10 CFR Part 50, App. E, Section IV A. 5 ..... The NRC is granting exemption from the requirement for the licensee to identify individuals with special qualifications for coping with emergencies.	The number of staff at decommissioning sites is generally small but should be commensurate with the need to operate the facility in a manner that is protective of public health and safety.
10 CFR Part 50, App. E, Section IV A.7 ..... The NRC is granting exemption from portions of the rule language that would otherwise require a description of the assistance expected from State, local, and Federal agencies for coping with a hostile action.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.1.
10 CFR Part 50, App. E, Section IV A.8 ..... The NRC is granting exemption from the requirement to identify the State and local officials for ordering protective actions and evacuations.	Offsite emergency measures are limited to support provided by local police, fire departments, and ambulance and hospital services, as appropriate. Due to the low probability of design basis accidents or other credible events to exceed the EPA PAGs, protective actions such as evacuation should not be required, but could be implemented at the discretion of offsite authorities using a CEMP. Also refer to basis for 10 CFR 50.47(b)(10).
10 CFR Part 50, App. E, Section IV A.9 ..... The NRC is granting exemption from the requirement for the licensee to provide an analysis demonstrating that on-shift personnel are not assigned responsibilities that would prevent them from performing their assigned emergency plan functions.	Responsibilities should be well defined in the emergency plan and procedures, regularly tested through drills and exercises audited and inspected by the licensee and the NRC. The duties of the onshift personnel at a decommissioning reactor facility are not as complicated and diverse as those for an operating power reactor. The NRC staff considered the similarity between the staffing levels at a permanently shutdown and defueled reactor and staffing levels at an operating power reactor site. The minimal systems and equipment needed to maintain the spent nuclear fuel in the SFP or in a dry cask storage system in a safe condition requires minimal personnel and is governed by Technical Specifications. In the EP final rule published in the **Federal Register** (76 FR 72560; November 23, 2011), the NRC concluded that the staffing analysis requirement was not necessary for non-power reactor licensees due to the small staffing levels required to operate the facility. The NRC staff also examined the actions required to mitigate the very low probability beyond design-basis events for the SFP. Additionally, DEK also furnished information on its SFP inventory makeup strategies for mitigating the loss of water inventory. The multiple strategies for providing makeup to the SFP include: using existing plant systems for inventory makeup; supplying water via hoses to a spool piece connection to the existing SFP piping; or using a diesel-driven portable pump to take suction from Lake Michigan and provide makeup or spray to the SFP. DEK further provided that the tools and equipment needed to perform these actions are located on site and the external makeup strategy (using a diesel driven portable pump) was demonstrated to be capable of being deployed within 2 hours, significantly less time than the 10 hours that would be available for ad hoc response. DEK believes, and the NRC staff agrees, that these diverse strategies provide defense-in-depth and ample time to provide makeup or spray to the SFP prior to the onset of zirconium cladding ignition when considering very low probability beyond design-basis events affecting the SFP.
10 CFR Part 50, App. E, Section IV B.1 ..... The NRC is granting exemption from portions of the rule language that would otherwise require offsite emergency actions levels and offsite protective measures and associate offsite monitoring for the emergency conditions. In addition, the NRC is granting exemption from portions of the rule language that would otherwise require emergency action levels based on hostile action.	NEI 99–01, ''Development of Emergency Action levels for Non-Passive Reactors'' (Revision 6), was found to be an acceptable method for development of EALs and was endorsed by the NRC in a letter dated March 28, 2013 (ADAMS Accession No. ML12346A463). No offsite protective actions are anticipated to be necessary, so classification above the alert level is no longer required, which is consistent with ISFSI facilities. Also refer to basis for 10 CFR Part 50, Appendix E, Section IV.1.

10 CFR Part 50, Appendix E, Section IV	NRC staff basis for exemption
10 CFR Part 50, App. E, Section IV C.1 ..... The NRC is granting exemption from portions of the rule language that would otherwise require emergency actions levels based on operating reactor concerns, such as offsite radiation monitoring, pressure in containment, and the response of the emergency core cooling system. In addition, the NRC is striking language that would otherwise require offsite emergency action levels of a site area emergency and a general emergency.	Containment parameters do not provide an indication of the conditions at a defueled facility and emergency core cooling systems are no longer required. Other indications, such as SFP level or temperature, can be used at sites where there is spent fuel in the SFPs. In the SOC for the final rule for EP requirements for ISFSIs and MRS) facilities (60 FR 32430), the Commission responded to comments concerning a general emergency at an ISFSI and an MRS, and concluded that, ''. . . an essential element of a General Emergency is that a release can be reasonably expected to exceed EPA Protective Action Guidelines exposure levels off site for more than the immediate site area.'' The probability of a condition reaching the level above an emergency classification of alert is very low. In the event of an accident at a defueled facility that meets the conditions for relaxation of EP requirements, there will be available time for event mitigation and, if necessary, implementation of offsite protective actions using a CEMP. NEI 99–01, ''Development of Emergency Action levels for Non-Passive Reactors,'' (Revision 6) was found to be an acceptable method for development of EALs and was endorsed by the NRC in a letter dated March 28, 2013 (ADAMS Accession No. ML12346A463). No offsite protective actions are anticipated to be necessary, so classification above the alert level is no longer required.
10 CFR Part 50, App. E, Section IV C.2 ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to assess, classify, and declare an emergency condition within 15 minutes.	In the EP rule published in the **Federal Register** (76 FR 72560), non-power reactor licensees were not required to assess, classify and declare an emergency condition within 15 minutes. An SFP and an ISFSI are also not nuclear power reactors as defined in the NRC's regulations. A decommissioning power reactor has a low likelihood of a credible accident resulting in radiological releases requiring offsite protective measures. For these reasons, the NRC staff concludes that a decommissioning power reactor should not be required to assess, classify and declare an emergency condition within 15 minutes.
10 CFR Part 50, App. E, Section IV D.1 ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to reach agreement with local, State, and Federal officials and agencies for prompt notification of protective measures or evacuations and the associated titles of officials to be notified for each agency within the EPZs.	Refer to basis for 10 CFR 50.47(b) and 10 CFR 50.47(b)(10).
10 CFR Part 50, App. E, Section IV D.2 ..... The NRC is granting exemption from the requirement for the licensee to annually disseminate general information on emergency planning and evacuations within the plume exposure pathway EPZ. The need for signage or other measure to address transient populations is also being struck.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.D.1.
10 CFR Part 50, App. E, Section IV D.3 ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to have the capability to make notifications to State and local government agencies within 15 minutes of declaring an emergency.	While the capability needs to exist for the notification of offsite government agencies within a specified time period, previous exemptions have allowed for extending the State and local government agencies' notification time up to 60 minutes based on the site-specific justification provided. DEK's exemption request provides that the KPS will make notifications to the State of Wisconsin, to the local county (Kewaunee) and the NRC within 60 minutes of declaration of an event. In the permanently defueled condition of the reactor, the rapidly developing scenarios associated with events initiated during reactor power operation are no longer credible. Also refer to basis for 10 CFR 50.47(b) and 10 CFR 50.47(b)(10).
10 CFR Part 50, App. E, Section IV D.4 ..... The NRC is granting exemption from the requirement for the licensee to obtain FEMA approval of its backup alert and notification capability.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.D.3 regarding the alert and notification system requirements.
10 CFR Part 50, App. E, Section IV E.8.a.(i) ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to have an onsite technical support center and emergency operations facility..	Due to the low probability of design-basis accidents or other credible events to exceed the EPA PAGs at the site boundary, the available time for event mitigation at a decommissioning reactor and, if needed, to implement offsite protective actions using a CEMP, an emergency operations facility (EOF) would not be required to support offsite agency response. Onsite actions may be directed from the control room or other location, without the requirements imposed on a technical support center (TSC).

10 CFR Part 50, Appendix E, Section IV	NRC staff basis for exemption
10 CFR Part 50, App. E, Section IV E.8.a.(ii) ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to have an onsite operational support center.	NUREG–0696, ''Functional Criteria for Emergency Response Facilities,'' provides that the operational support center (OSC) is an onsite area separate from the control room and the TSC where licensee operations support personnel will assemble in an emergency. For a decommissioning power reactor, an OSC is no longer required to meet its original purpose of an assembly area for plant logistical support during an emergency. The OSC function can be incorporated into another facility.
10 CFR Part 50, App. E, Section IV E.8.b. and subpart Sections IV E.8.b.(1)–E.8.b.(5). The NRC is granting exemption from the requirements related to an offsite emergency operations facility location, space and size, communications capability, access to plant data and radiological information, and access to coping and office supplies.	Refer to basis for 10 CFR 50.47(b)(3).
10 CFR Part 50, App. E, Section IV E.8.c. and Sections IV E.8.c.(1)–E.8.c.(3). The NRC is granting exemption from the requirements to have an emergency operations facility with the capabilities to obtain and display plant data and radiological information; the capability to analyze technical information and provide briefings; and the capability to support events occurring at more than one site (if the emergency operations center supports more than one site).	Refer to basis for 10 CFR 50.47(b)(3).
10 CFR Part 50, App. E, Section IV E.8.d ..... The NRC is granting exemption from the requirements to have an alternate facility that would be accessible even if the site is under threat of or experiencing hostile action, to function as a staging area for augmentation of emergency response staff.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.1 regarding hostile action.
10 CFR Part 50, App. E, Section IV E.8.e ..... The NRC is granting exemption from the requirement regarding the need for the licensee to comply with paragraph 8.b of this section	Refer to basis for 10 CFR 50.47(b)(3).
10 CFR Part 50, App. E, Section IV E.9.a ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to have communications with State and local governments that are within the plume exposure pathway EPZ (which is no longer required by the exemption granted to 10 CFR 50.47(b)(10)) but are not contiguous with or bordering on the licensee site boundary.	Refer to basis for 10 CFR 50.47(b) and 10 CFR 50.47(b)(10). Communications with State and local governments that are not contiguous with or bordering the site boundary will no longer be required. However, the contiguous State and the local governments in which the nuclear facility is located will still need to be informed of events and emergencies, so lines of communication must be maintained.
10 CFR Part 50, App. E, Section IV E.9.c ..... The NRC is granting exemption from the requirements for communication and testing provisions between the control room, the onsite technical support center, State/local emergency operations facilities, and field assessment teams.	Because of the low probability of design-basis accidents or other credible events that would be expected to exceed the EPA PAGs and the available time for event mitigation and, if needed, implementation of offsite protective actions using a CEMP, there is no need for the TSC, EOF, or offsite field assessment teams. Also refer to justification for 10 CFR 50.47(b)(3). Communication with State and local emergency operation centers is maintained to coordinate assistance on site if required.
10 CFR Part 50, App. E, Section IV E.9.d ..... The NRC is granting exemption from portions of the rule language that would otherwise require provisions for communications from the control room, onsite technical support center, and emergency operations facility with NRC Headquarters and appropriate Regional Operations Center.	The functions of the control room, EOF, TSC, and OSC may be combined into one or more locations due to the smaller facility staff and the greatly reduced required interaction with State and local emergency response facilities. Also refer to basis for 10 CFR 50.47(b).
10 CFR Part 50, App. E, Section IV F.1 and Section IV F.1. v.iii ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to provide training and drills for the licensee's headquarters personnel, Civil Defense personnel, or local news media.	Decommissioning power reactor sites typically have a level of emergency response that does not require additional response by the licensee's headquarters personnel, Civil Defense personnel, or local news media. Therefore, the NRC staff considers it reasonable to exempt the licensee from training and drill requirements for these personnel.
10 CFR Part 50, App. E, Section IV F.2 ..... The NRC is granting exemption from portions of the rule language that would otherwise require testing of a public alert and notification system.	Because of the low probability of design basis accidents or other credible events that would be expected to exceed the limits of EPA PAGs and the available time for event mitigation and offsite protective actions from a CEMP, the public alert and notification system will not be used and, therefore, requires no testing. Also refer to basis for 10 CFR 50.47(b).

10 CFR Part 50, Appendix E, Section IV	NRC staff basis for exemption
10 CFR Part 50, App. E, Section IV F.2.a. and Section IV F.2.a.(i) through IV F.2.a.(iii). The NRC is granting exemption from the requirements for full participation exercises and the submittal of the associated exercise scenarios to the NRC.	Due to the low probability of design basis accidents or other credible events that would be expected to exceed the limits of EPA PAGs, the available time for event mitigation and, if necessary, implementation of offsite protective actions using a CEMP, no formal offsite radiological emergency plans are required. The intent of submitting exercise scenarios at an operating power reactor site is to ensure that licensees utilize different scenarios in order to prevent the preconditioning of responders at power reactors. For decommissioning power reactor sites, there are limited events that could occur, and as such, the previously routine progression to general emergency in an operating power reactor site scenario is not applicable. The licensee would be exempt from 10 CFR. Part 50, Appendix E, Section IV.F.2.a.(i)–(iii) because the licensee would be exempt from the umbrella provision of 10 CFR Part 50, Appendix E, Section IV.F.2.a.
10 CFR Part 50, App. E, Section IV F.2.b ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to submit scenarios for its biennial exercises of its onsite emergency plan. In addition, the NRC is granting exemption from portions of the rule language that requires assessment of offsite releases, protective action decision making, and reference to the Technical Support Center, Operations Support Center, and the Emergency Operations Facility.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.F.2.a. The low probability of design basis accidents or other credible events that would exceed the EPA PAGs, the available time for event mitigation and, if necessary, implementation of offsite protective actions using a CEMP, render a TSC, OSC and EOF unnecessary. The principal functions required by regulation can be performed at an onsite location that does not meet the requirements of the TSC, OSC or EOF.
10 CFR Part 50, App. E, Section IV F.2.c. and Sections IV F.2.c.(1) through F.2.c.(5). The NRC is granting exemption from the requirements regarding the need for the licensee to exercise offsite plans biennially with full participation by each offsite authority having a role under the radiological response plan. The NRC is also granting exemptions from the conditions for conducting these exercises (including hostile action exercises) if two different licensees have facilities on the same site or on adjacent, contiguous sites, or share most of the elements defining co-located licensees.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.F.2.a.
10 CFR Part 50, App. E, Section IV F.2.d ..... The NRC is granting exemption from the requirements to obtain State participation in an ingestion pathway exercise and a hostile action exercise, with each State that has responsibilities, at least once per exercise cycle.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.2.
10 CFR Part 50, App. E, Section IV F.2.e ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to allow participation exercise in licensee drills by any State and local Government in the plume exposure pathway EPZ when requested.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.2.
10 CFR Part 50, App. E, Section IV F.2.f ..... The NRC is granting exemption from portions of the rule language that would otherwise require FEMA to consult with the NRC on remedial exercises. The NRC is granting exemption from portions of the rule language that discuss the extent of State and local participation in remedial exercises.	The U.S. Federal Emergency Management Agency is responsible for evaluating the adequacy of offsite response during an exercise. No action is expected from State or local government organizations in response to an event at a decommissioning power reactor site other than onsite firefighting, law enforcement and ambulance/medical services support. A memorandum of understanding should be in place for those services. Offsite response organizations will continue to take actions on a comprehensive emergency planning basis to protect the health and safety of the public as they would at any other industrial site.
10 CFR Part 50, App. E, Section IV F.2.i ..... The NRC is granting exemption from portions of the rule language that would otherwise require the licensee to drill and exercise scenarios that include a wide spectrum of radiological release events and hostile action.	Due to the low probability of design basis accidents or other credible events to exceed the EPA PAGs, the available time for event mitigation and, if needed, implementation of offsite protective actions using a CEMP, the previously routine progression to general emergency in power reactor site scenarios is not applicable to a decommissioning site. Therefore, the licensee is not expected to demonstrate response to a wide spectrum of events. Also refer to basis for 10 CFR Part 50, Appendix E, Section IV.1 regarding hostile action.
10 CFR Part 50, App. E, Section IV F.2.j ..... The NRC is granting exemption from the requirements regarding the need for the licensee's emergency response organization to demonstrate proficiency in key skills in the principal functional areas of emergency response. Additionally, the NRC is granting exemption during an eight calendar year exercise cycle, from demonstrating proficiency in the key skills necessary to respond to such scenarios as hostile actions, unplanned minimal radiological release, § 50.54(hh)(2) implementation strategies, and scenarios involving rapid escalation to a Site Area Emergency or General Emergency.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.F.2.

10 CFR Part 50, Appendix E, Section IV	NRC staff basis for exemption
10 CFR Part 50, App. E, Section IV I ..... The NRC is granting exemption from the requirements regarding the need for the licensee to develop a range of protective action for on-site personnel during hostile actions.	Refer to basis for 10 CFR Part 50, Appendix E, Section IV.E.8.d.

[FR Doc. 2014–26292 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Structural Analysis; Notice of Meeting

The ACRS Subcommittee on Structural Analysis will hold a meeting on November 17, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, November 17, 2014—8:30 a.m. Until 12:00 p.m.

The Subcommittee will review and discuss the methodology used for uncertainty in seismic hazard curve development. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Maitri Banerjee (Telephone 301–415–6973 or Email: *Maitri.Banerjee@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307–59308).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: October 29, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–26291 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability & PRA; Notice of Meeting

The ACRS Subcommittee on Reliability & PRA will hold a meeting on November 19, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 19, 2014–1:00 p.m. Until 5:00 p.m.

The Subcommittee will discuss the containment protection and release reduction (CPRR) rulemaking risk evaluation and scoping study of human error probabilities. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), John Lai (Telephone 301–415–5197 or Email: *John.Lai@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307–59308).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: October 30, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–26285 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Digital I&C; Notice of Meeting

The ACRS Subcommittee on Digital I&C will hold a meeting on November 17, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, November 17, 2014—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review and discuss the Draft Branch Technical Position (BTP 8–9), ''Open Phase Condition in Electric Power Systems,'' of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition (NUREG–0800). The Subcommittee will hear presentations by and hold discussions with the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christina Antonescu (Telephone 301–415–6792 or Email: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307–59308).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: October 29, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–26284 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Joint Meeting of the ACRS Subcommittees on Digital I&C and Reliability & PRA; Notice of Meeting

The ACRS Subcommittees on Digital I&C and Reliability & PRA will hold a joint meeting on November 18–19, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Tuesday, November 18, 2014—8:30 a.m. Until 5:00 p.m.; Wednesday, November 19, 2014—8:30 a.m. Until 12:00 p.m.

The Subcommittees will review activities conducted under the Digital I&C Research Plan and draft NUREG/CR on the results of the statistical testing project at Idaho National Laboratory. The Subcommittees will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christina Antonescu (Telephone 301–415–6792 or Email: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR59307–59308).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: October 29, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–26286 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333; NRC–2014–0034]

Entergy Nuclear Operations, Inc., James A. Fitzpatrick Nuclear Power Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's Decision under 10 CFR 2.206; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a director's decision with regard to a petition dated July 25, 2013, as supplemented on November 13, 2013, filed by Mr. David Lochbaum, (the petitioner), on behalf of Alliance for Green Economy, Beyond Nuclear, Citizens Awareness Network, and Union of Concerned Scientists, requesting that the NRC take action with regard to concerns with the operation of James A. FitzPatrick Nuclear Power Plant (FitzPatrick), owned by Entergy Nuclear Generation Company and operated by Entergy Nuclear Operations, Inc. (Entergy, the licensee). The petitioner's requests and the director's decision are included in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Please refer to Docket ID NRC–2014–0034 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0034. 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.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' 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: Mohan Thadani, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1476, email: *Mohan.Thadani@nrc.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a director's decision (ADAMS Accession No. ML14247A306) on a petition filed by the petitioner on July 25, 2013, (ADAMS Accession No. ML13217A061). The petition was supplemented by letter dated November 13, 2013 (ADAMS Accession No. ML13347B133). The petitioner requested that the NRC take enforcement action by imposing a regulatory requirement that all the condenser tubes be replaced at FitzPatrick prior to the reactor restarting from its fall 2014 refueling outage.

On November 13, 2013, the petitioner and the licensee met with the NRC's Petition Review Board. The meeting provided the petitioner and the licensee an opportunity to provide additional information and to clarify issues cited in the petition. The transcript for that meeting is available in ADAMS under Accession No. ML14036A234.

As a basis of the request, the petitioners asserted that FitzPatrick is experiencing abnormally high occurrences of condenser tube failures. To repair these leaks, Entergy Nuclear Operations Inc. (Entergy) routinely reduces power, makes the repairs needed, and returns to full power. The petitioners state that these power excursions constitute a risk to public health and safety. The NRC's Reactor Oversight Process also recognizes the elevated risk associated with unplanned power changes.

The petitioner also asserts that operating experience indicates that condenser-tube leaks have contaminated the reactor coolant water with impurities from the condenser cooling water and have caused extensive damage to nuclear power plant components. Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,'' to part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities'' (see *http://www.nrc.gov/reading-rm/doc-collections/cfr/part050/part050-appb.html*), requires that plant owners develop and maintain quality-assurance programs.

The NRC observed that Entergy did not properly consider FitzPatrick's operating history, specifically the 4 years of outages, when projecting the expected condenser-tube life. Consequently, Entergy did not properly plan and design for condenser tube replacement before tube leakage, which has necessitated frequent downpowers for repair. Corrective actions include condenser-tube sleeving during the fall 2012 refueling outage and a planned complete replacement of all condenser tubes in the fall 2014 refueling outage.

The NRC sent a copy of the Proposed Director's Decision to the petitioner and the licensee for comments on June 27, 2014. The Petitioner and the licensee were asked to provide comments within 30 days on any part of the proposed Director's Decision that was considered to be erroneous or any issues in the petition that were not addressed. Comments were received from the Petitioner and are addressed in an attachment to the final Director's Decision.

The Director of the Office of Nuclear Reactor Regulation has determined that the request, to require the NRC to issue an Order requiring the licensee to replace all the condenser tubes prior to restart from FitzPatrick's fall 2014 refueling outage, be denied. The reasons for this decision are explained in the director's decision dated October 17, 2014, pursuant to 10 CFR 2.206 of the Commission's regulations.

The NRC will file a copy of the director's decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the Decision unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./web link/ **Federal Register** citation
G20130561—David Lochbaum E-mail re Tanya Mensah, NRR, Merrilee Banic, NRR; Andrea Russell, NRR, David Pelton, NRR; Mary Spencer; OGC.	ML13217A061, July 25, 2013.
2013/12/12 NRR E-mail Capture—Attached please find the transcript for PRB telecon with petitioner Lochbaum ''10 CFR 2.206 Petition Review Board re: Fitzpatrick Nuclear Power Plant'' dated November 13, 2013.	ML14036A234, November 13, 2013.
G20130561—James A. Fitzpatrick Nuclear Power Plant—Petition Pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations. (Acknowledgement Letter and **Federal Register** Notice).	ML14034A028 and ML14034A071, February 12, 2014.
IR 05000333–14–007; 01/20/2014—01/24/2014; James A. Fitzpatrick Nuclear Power Plant (FitzPatrick); Supplemental Inspection—Inspection Procedure (IP) 95001.	ML14133A051, May 12, 2014.
G20130561—James A. Fitzpatrick Nuclear Power Plant—Petition Pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations.	ML13217A059.
G20130561—Letter to Licensee Re: David Lochbaum ltr dtd 07/25/13 Concerning the 2.206 Petition on the Recurring Condenser Tube Leaks at the James A. Fitzpatrick Nuclear Power Plant (TAC No. MF2521).	ML14127A323, June 27, 2014.
G20130561—Letter to Petitioner Re: David Lochbaum Ltr dtd 07/25/13 Concerning the 2.206 Petition on the Recurring Condenser Tube Leaks at the James A. Fitzpatrick Nuclear Power Plant (TAC No. MF2521).	ML14127A335, June 27, 2014.
G20130561—2.206 Proposed Director's Decision Re: David Lochbaum Ltr dtd 07/25/13 Concerning the Recurring Condenser Tube Leaks at the James A Fitzpatrick Nuclear Power Plant (TAC No. MF2521).	ML14127A338, June 27, 2014.
2014/07/09 NRR E-mail Capture—Comments on Draft Director's Decision on FitzPatrick. (From Petitioner)	ML14251A270, July 09, 2014.
James A. FitzPatrick Nuclear Power Plant—Comments to Proposed Director's Decision Under 10 CFR 2.206. (From Licensee).	ML14204A819, July 23, 2014.
Letter to David Lochbaum: Response to petition filed on July 25, 2013	ML14247A311.
Final Director's Decision: Petition filed on July 25, 2013	ML14247A306.
James A. FitzPatrick Final **Federal Register** Notice—Issuance of Director's Decision 2.206 Petition Re: Condenser Tubes.	ML14303A178.

Dated at Rockville, Maryland, this 17th day of October 2014.

For the Nuclear Regulatory Commission.

William M. Dean,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–26308 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–0213

Extension:

Regulation AC; SEC File No. 270–517, OMB Control No. 3235–0575

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Regulation Analyst Certification (AC) (17 CFR 242.500–505) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Regulation AC requires that research reports published, circulated, or provided by a broker or dealer or covered person contain a statement attesting that the views expressed in each research report accurately reflect the analyst's personal views and whether or not the research analyst received or will receive any compensation in connection with the views or recommendations expressed in the research report. Regulation AC also requires broker-dealers to, on a quarterly basis, make, keep, and maintain records of research analyst statements regarding whether the views expressed in public appearances accurately reflected the analyst's personal views, and whether any part of the analyst's compensation is related to the specific recommendations or views expressed in the public appearance. Regulation AC also requires that research prepared by foreign persons be presented to U.S. persons pursuant to Securities Exchange Act Rule 15a–6 and that broker-dealers notify associated persons if they would be covered by the regulation. Regulation AC excludes the news media from its coverage.

The Commission estimates that Regulation AC imposes an aggregate annual time burden of approximately 25,395 hours on 5,186 respondents, or approximately 5 hours per respondent. The Commission estimates that the total annual internal cost of compliance attributable to the 25,395 hours is approximately $11,616,150.00, or approximately $2,239.90 per respondent, annually.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 31, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–26350 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31322; 812–14227]

AllianceBernstein Multi-Manager Alternative Fund, et al.; Notice of Application

October 31, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares (''Shares'') and to impose asset-based distribution and service fees and contingent deferred sales charges (''CDSCs'').

APPLICANTS: AllianceBernstein Multi-Manager Alternative Fund (the ''Fund''), AllianceBernstein L.P. (the ''Adviser''), Sanford C. Bernstein & Company, LLC (''SCB''), and AllianceBernstein Investments, Inc. (''ABI'' and, together with SCB, the ''Distributors'' and each, a ''Distributor'').

FILING DATES: The application was filed on October 29, 2013 and amended on May 22, 2014 and October 7, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 21, 2014, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Emilie D. Wrapp, AllianceBernstein L.P., 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Fund is a continuously offered non-diversified closed-end management investment company registered under the Act and organized as a Delaware statutory trust. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Fund. SCB, a broker-dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act''), acts as principal underwriter to the Fund. ABI, a registered broker-dealer under the 1934 Act, may enter into a distribution agreement with the Fund, pursuant to which it would distribute certain classes of shares (''Shares'') of the Fund. The Distributors are under common control with the Adviser and are affiliated persons, as defined in section 2(a)(3) of the Act, of the Adviser.

2. The Fund continuously offers its Shares to the public pursuant to a registration statement under the Securities Act of 1933. The Shares of the Fund are not listed on any securities exchange and are not traded on an over-the-counter system such as NASDAQ. Applicants do not expect that any secondary market will develop for the Shares.

3. The Fund currently offers, and intends to continue to offer, an initial class of Shares (''Initial Class'') at net asset value without any sales load, service fee, or distribution fee. The Fund may offer new Share classes at net asset value and may also charge a front-end sales load, a CDSC, and/or an annual asset-based service and/or distribution fee.[1]

4. In order to provide a degree of liquidity to shareholders, the Fund may from time to time offer to repurchase Shares at net asset value in accordance with rule 13e–4 under the 1934 Act. A Fund will repurchase Shares at such times, in such amounts and on such terms as may be determined by the board of trustees (''Board'') of the Fund in its sole discretion. The Adviser expects to recommend ordinarily that the Board authorize each Fund to offer to repurchase Shares from shareholders quarterly.

5. Applicants request that the order also apply to any other continuously offered registered closed-end management investment companies existing now or in the future for which the Adviser, a Distributor, or any entity controlling, controlled by or under common control with the Adviser or a Distributor acts as investment adviser or principal underwriter, and which provides periodic liquidity with respect to its Shares pursuant to rule 13e–4 under the 1934 Act (such investment companies, together with the Fund, the ''Funds'').[2]

6. Applicants represent that any asset-based service and distribution fees will comply with the provisions of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD Conduct Rule 2830'').[3] Applicants also represent that each Fund will disclose in its prospectus, the fees, expenses and other characteristics of each class of Shares offered for sale by the prospectus as is required for open-end multiple class funds under Form N–1A. The Fund will disclose fund expenses in shareholder reports as if it were an open-end management investment company, and disclose any arrangements that result in breakpoints in, or elimination of, sales loads in its prospectus.[4] The Fund and

[1] Shares may be subject to an early withdrawal fee at a rate of 2% of the aggregate net asset value of a shareholder's Shares repurchased by the Fund (the ''Early Withdrawal Fee'') if the interval between the date of purchase of the Shares and the valuation date with respect to the repurchase of those Shares is less than one year. Any Early Withdrawal Fee imposed by the Fund would apply to all classes of Shares of the Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. To the extent the Fund determines to waive, impose scheduled variations of, or eliminate any Early Withdrawal Fee, it will do so consistently with the requirements of rule 22d–1 under the Act and the Fund's waiver of, scheduled variation in, or elimination of, any such Early Withdrawal Fee will apply uniformly to all shareholders of the Fund.

[2] Any Fund relying on this relief in the future will do so in a manner consistent with the terms and conditions of the application. Applicants represent that any investment company presently intending to rely on the requested relief is listed as an applicant.

[3] All references to NASD Conduct Rule 2830 include any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[4] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund

Continued

the Distributors will also comply with any requirements that may be adopted by the Commission or FINRA regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Fund and the Distributors.[5]

7. The Fund will allocate all expenses incurred by it among the various classes of Shares based on the respective net assets of the Fund attributable to each such class, except that the net asset value and expenses of each class will reflect distribution fees, service fees, and any other incremental expenses of that class. Expenses of the Fund respectively allocated to a particular class of the Fund's Shares will be borne on a pro rata basis by each outstanding Share of that class. Applicants state that the Fund will comply with the provisions of rule 18f–3 under the Act as if it were an open-end investment company.

8. In the event a Fund imposes a CDSC, the applicants will comply with the provisions of rule 6c–10, as if that rule applied to closed-end management investment companies. With respect to any waiver of, scheduled variation in, or elimination of the CDSC, the Fund will comply with rule 22d–1 under the Act as if the Fund were an open-end investment company.

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Shares of the Funds may be prohibited by section 18(c).

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that permitting multiple classes of Shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(c) and 18(i) to permit the Funds to issue multiple classes of Shares.

4. Applicants submit that the proposed allocation of expenses and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit the Fund to facilitate the distribution of its Shares and provide shareholders with a broader choice of investment options. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

CDSCs

1. Applicants believe that the requested relief meets the standards of section 6(c) of the Act. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that any CDSC imposed by the Fund will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Fund also will disclose CDSCs in accordance with the requirements of Form N–1A concerning CDSCs as if the Fund were an open-end investment company. Applicants further state that the Fund will apply the CDSC (and any waivers or scheduled variations of the CDSC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act. Any scheduled variations in, or eliminations of, any sales load will be applied consistently with the requirements of rule 22d–1 under the Act.

Asset-Based Service and Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to permit the Funds to impose asset-based service and/or distribution fees. Applicants will comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c–10,12b–1, 17d–3, 18f–3, and 22d–1 under the Act, as amended from time to time or replaced, as if those rules applied to closed-end management investment companies, and will comply with NASD Conduct Rule 2830, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–26351 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[5] *See,* e.g., Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities, and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds, Investment Company Act Release No. 26341 (Jan. 29, 2004) (proposing release).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73469; File No. SR–BX–2014–052]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

October 30, 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 October 23, 2014, NASDAQ OMX BX, Inc. (''BX'' 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, Section 2 entitled ''BX Options Market—Fees and Rebates.'' Specifically, the Exchange is proposing to amend Routing Fees.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on November 3, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Routing Fees in Chapter XV, Section 2(3) to recoup costs incurred by the Exchange to route orders to away markets.

Today, the Exchange assesses a Non-Customer a $0.97 per contract Routing Fee to any options exchange. The Customer[3] Routing Fee for option orders routed to The NASDAQ Options Market LLC (''NOM'') and NASDAQ OMX PHLX LLC (''PHLX'') is a $0.12 per contract Fixed Fee in addition to the actual transaction fee assessed. The Customer Routing Fee for option orders routed to all other options exchanges[4] (excluding NOM and PHLX) is a fixed fee of $0.22 per contract (''Fixed Fee'') in addition to the actual transaction fee assessed. If the away market pays a rebate, the Routing Fee is $0.12 per contract.

With respect to the fixed costs, the Exchange incurs a fee when it utilizes Nasdaq Execution Services LLC (''NES''), a member of the Exchange and the Exchange's affiliated broker-dealer exclusive order router.[5] Each time NES routes an order to an away market, NES is charged a clearing fee[6] and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange currently recoups clearing and transaction charges incurred by the Exchange as well as certain other costs incurred by the Exchange when routing to away markets, such as administrative and technical costs associated with operating NES, membership fees at away markets, Options Regulatory Fees (''ORFs''), staffing and technical costs associated with routing options. The Exchange assesses the actual away market fee at the time that the order was entered into the Exchange's trading system. This transaction fee is calculated on an order-by-order basis since different away markets charge different amounts.

The Exchange is proposing to increase its Non-Customer Routing Fees from $0.97 to $0.99 per contract to any options exchange. The Exchange is proposing to increase its Customer Routing Fixed Fees to NOM and PHLX from $0.12 to $0.13 per contract, in addition to the actual transaction fee assessed to recoup an additional portion of the costs incurred by the Exchange for routing these orders. The Exchange is proposing to increase its Customer Routing Fixed Fees to all other options exchanges (excluding NOM and PHLX) from $0.22 to $0.23 per contract, in addition to actual transaction fees assessed. The Exchange would also increase the Customer Routing Fee to all other options exchanges if the away market pays a rebate from a fee of $0.12 to $0.13 per contract, because the Exchange would continue to retain the rebate to offset the cost to route orders to offset the cost to route orders to these away markets. The Exchange desires to recoup additional costs at this time.

2. Statutory Basis

BX believes that its proposal to amend its fees is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act[8] 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 BX operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that amending the Non-Customer Routing Fee for orders routed to any options exchange from a fee of $0.97 to $0.99 per contract, is reasonable because the Exchange desires to recoup an additional portion of the cost it incurs when routing Non-Customer orders. The Exchange is proposing to increase the Fixed Fee to recoup additional costs that are incurred by the Exchange in connection with routing these orders on behalf of its members.

The Exchange believes that amending the Customer Routing Fee for orders routed to NOM and PHLX from a Fixed Fee of $0.12 to $0.13 per contract, in addition to the actual transaction fee, is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Customer'' or (''C'') applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Chapter I, Section 1(a)(48)).

[4] Including BATS Exchange, Inc. (''BATS''), BOX Options Exchange LLC (''BOX''), the Chicago Board Options Exchange, Incorporated (''CBOE''), C2 Options Exchange, Incorporated (''C2''), International Securities Exchange, LLC (''ISE''), the Miami International Securities Exchange, LLC (''MIAX''), NYSE Arca, Inc. (''NYSE Arca''), NYSE MKT LLC (''NYSE Amex'') and ISE Gemini, LLC (''Gemini'').

[5] *See* Securities Exchange Act Release No. 71420 (January 28, 2014), 79 FR 6256 (February 3, 2014) (SR–BX–2014–004) (an immediately effective rule change to utilize NES for outbound order routing from BX).

[6] The Options Clearing Corporation (''OCC'') assesses $0.01 per contract side.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4), (5).

reasonable because the Exchange desires to recoup an additional portion of the cost it incurs when routing Customer orders to NOM or PHLX. Today, the Exchange assesses orders routed to NOM and PHLX a lower Fixed Fee for routing Customer orders as compared to the Fixed Fee assessed to other options exchanges. The Exchange is proposing to increase the Fixed Fee to recoup additional costs that are incurred by the Exchange in connection with routing these orders on behalf of its members.

The Exchange believes that continuing to assess lower Fixed Fees to route Customer orders to NOM and PHLX, as compared to other options exchanges, is reasonable as the Exchange is able to leverage certain infrastructure to offer those markets lower fees as explained further below.

The Exchange believes that amending the Customer Routing Fee to other away markets, other than NOM and PHLX, from a Fixed Fee of $0.22 to $0.23 per contract, in addition to the actual transaction fee, is reasonable because the Exchange desires to recoup an additional portion of the cost it incurs when routing orders to these away markets. The Fixed Fee for Customer orders is an approximation of the costs the Exchange will be charged for routing orders to away markets. While each destination market's transaction charge varies and there is a cost incurred by the Exchange when routing orders to away markets, including, OCC clearing costs, administrative and technical costs associated with operating NES, membership fees at away markets, ORFs and technical costs associated with routing options, the Exchange believes that the proposed Routing Fees will enable it to recover the costs it incurs to route Customer orders to away markets.

The Exchange believes that amending the Customer Routing Fee to other away markets, other than NOM and PHLX, if the away market pays a rebate, from $0.12 to $0.13 per contract is reasonable because the Exchange desires to recoup an additional portion of the cost it incurs when routing Customer orders to away markets, similar to the amount of Fixed Fee it proposes to assess for orders routed to NOM and PHLX. The Exchange is proposing to assess a Fixed Fee to recoup additional costs that are incurred by the Exchange in connection with routing these orders on behalf of its members. While the Exchange would continue to retain any rebate paid by away markets, the Exchange does not assess the actual transaction fee that is charged by away markets for Customer orders. As a general matter, the Exchange believes that the proposed fees for Customer orders routed to markets which pay a rebate would allow it to recoup and cover a portion of the costs of providing optional routing services for Customer orders because it better approximates the costs incurred by the Exchange for routing such orders.

The Exchange believes that amending the Non-Customer Routing Fee for orders routed to any options exchange from a fee of $0.97 to $0.99 per contract, is equitable and not unfairly discriminatory because the Exchange would assess the same $0.99 per contract fee to all market participants utilizing routing for Non-Customer orders.

The Exchange believes that amending the Customer Routing Fee for orders routed to NOM and PHLX from a Fixed Fee of $0.12 to $0.13 per contract, in addition to the actual transaction fee, is equitable and not unfairly discriminatory because the Exchange would assess the same Fixed Fee to all orders routed to NOM or PHLX in addition to the transaction fee assessed by that market.

The Exchange would uniformly assess a $0.13 per contract Fixed Fee to orders routed to NASDAQ OMX exchanges because the Exchange is passing along the saving realized by leveraging NASDAQ OMX's infrastructure and scale to market participants when those orders are routed to NOM or PHLX and is providing those saving to all market participants. Furthermore, it is important to note that when orders are routed to an away market they are routed based on price first.[9] The Exchange believes that it is equitable and not unfairly discriminatory to assess a fixed cost of $0.13 per contract to route orders to NOM and PHLX because the cost, in terms of actual cash outlays, to the Exchange to route to those markets is lower. For example, costs related to routing to NOM and PHLX are lower as compared to other away markets because NES is utilized by all three exchanges to route orders.[10] NES and the three NASDAQ OMX options markets have a common data center and staff that are responsible for the day-to-day operations of NES. Because the three exchanges are in a common data center, Routing Fees are reduced because costly expenses related to, for example, telecommunication lines to obtain connectivity are avoided when routing orders in this instance. The costs related to connectivity to route orders to other NASDAQ OMX exchanges are lower than the costs to route to a non-NASDAQ OMX exchange. When routing orders to non-NASDAQ OMX exchanges, the Exchange incurs costly connectivity charges related to telecommunication lines, membership and access fees, and other related costs when routing orders.

The Exchange believes that amending the Customer Routing Fee to other away markets, other than NOM and PHLX, from a Fixed Fee of $0.22 to $0.23 per contract is equitable and not unfairly discriminatory because the Exchange would assess the same Fixed Fee to all orders routed to away markets other than NOM and PHLX in addition to the transaction fee, provided the away market does not pay a rebate.

The Exchange's proposal to increase the Customer Routing Fee to all other options exchanges that pay a rebate, other than NOM and PHLX, from $0.12 to $0.13 per contract is equitable and not unfairly discriminatory because the Exchange would assess the same Fixed Fee that is proposed when routing Customer orders to a NASDAQ OMX exchange. All market participants that route an order to an away market, other than NOM or PHLX, would be assessed a uniform fee of $0.13 per contract if the away market (non-NASDAQ OMX exchange) pays a rebate. These proposals would apply uniformly to all market participants when routing to an away market that pays a rebate, other than NOM and PHLX.

Finally, market participants may submit orders to the Exchange as ineligible for routing or ''DNR'' to avoid Routing Fees.[11] Also, orders are routed to an away market based on price first.[12]

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposal creates a burden on intra-market competition because the Exchange is applying the same Routing Fees to all market participants in the same manner dependent on the routing venue, with the exception of Customers. The Exchange will continue to assess separate Customer Routing Fees. Customers will continue to receive the lowest fees as compared to non-Customers when routing orders, as is the case today. Other options exchanges also assess lower Routing Fees for

[9] *See* BX Rules at Chapter VI, Section 11(e) (Order Routing).

[10] *See* Chapter VI, Section 11 of NOM and BX Rules. *See also* PHLX Rule 1080(m)(iii)(A).

[11] *See* BX Rules at Chapter VI, Section 11(e) (Order Routing).

[12] *See* Chapter VI, Section 11 of BX Rules.

customer orders as compared to non-customer orders.[13]

The Exchange's proposal would allow the Exchange to continue to recoup its costs when routing Customer orders to PHLX or NOM as well as away markets that pay a rebate when such orders are designated as available for routing by the market participant. The Exchange continues to pass along savings realized by leveraging NASDAQ OMX's infrastructure and scale to market participants when Customer orders are routed to PHLX and NOM and is providing those savings to all market participants. Today, other options exchanges also assess fixed routing fees to recoup costs incurred by the exchange to route orders to away markets.[14]

Market participants may submit orders to the Exchange as ineligible for routing or ''DNR'' to avoid Routing Fees.[15] Also, orders are routed to an away market based on price first.[16]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[17] 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–BX–2014–052 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–BX–2014–052.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2014–052 and should be submitted on or before November 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–26227 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

[13] BATS assesses lower customer routing fees as compared to non-customer routing fees per the away market. For example BATS assesses ISE customer routing fees of $0.52 per contract and an ISE non-customer routing fee of $ 0.65 per contract. *See* BATS BZX Exchange Fee Schedule.

[14] *See* CBOE's Fees Schedule and ISE's Fee Schedule.

[15] *See* note 11.

[16] *See* note 12.

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73472; File No. SR–BYX–2014–018]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Order Granting Approval of a Proposed Rule Change To Establish an Opening Process

October 30, 2014.

I. Introduction

On September 3, 2014, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to add new BATS Rule (''Rule'') 11.23, entitled ''Opening Process,'' and to make several corresponding changes, in order to modify the manner in which the Exchange opens trading in individual securities at the beginning of the day and after trading halts. The proposed rule change was published for comment in the **Federal Register** on September 19, 2014.[3] The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange has proposed to implement a process for opening trading at the beginning of Regular Trading Hours[4] and re-opening trading in such securities following a trading halt. Currently, the Exchange accepts orders during the Pre-Opening Session,[5] and any such orders are immediately eligible for execution. Orders that are on the BATS Book[6] at the beginning of Regular Trading Hours remain on the BATS Book, subject to the User's instructions, and trading continues into Regular Trading Hours without any transition period. Upon a halt, the Exchange currently cancels all orders on the BATS Book and does not accept any orders until the halt is lifted. The Exchange does not currently have a Regular Hours Only (''RHO'') time-in-force.

Under the proposal, the Exchange would amend its rules to allow orders to be designated RHO, and would accept and queue any such orders during the Pre-Opening Session for execution at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73094 (September 15, 2014), 79 FR 56411 (''Notice'').

[4] Regular Trading Hours is defined in Rule 1.5(w).

[5] Pre-Opening Session is defined in Rule 1.5(r).

[6] BATS Book is defined in Rule 1.5(e).

the midpoint of the NBBO[7] shortly after the beginning of Regular Trading Hours (the ''Opening Process'').[8] The Exchange also has proposed to implement a similar process for re-opening trading after a halt, suspension, or pause (collectively, a ''Halt''), under which a User's orders would remain on the BATS Book unless the User has designated that they be cancelled upon a Halt (the ''Re-Opening Process'').

Specifically, the Exchange has proposed new Rule 11.9(b)(7), which would define RHO as a time-in-force modifier that applies to all securities.[9] Prior to the beginning of Regular Trading Hours, Users[10] that wish to participate in the Opening Process may enter orders to buy or sell with a time in force of RHO.[11] All orders that are marked as RHO may participate in the Opening Process except BATS Post Only Orders, Partial Post Only at Limit Orders, ISO orders not modified by Rule 11.23(a)(1) (as described below), and Minimum Quantity Orders.[12] Limit orders with a Reserve Quantity could participate to the full extent of their displayed size and Reserve Quantity.[13] Discretionary Orders could participate only up to their ranked price for buy orders or down to their ranked price for sell orders; the discretionary range of such orders would not be eligible for participation in the Opening Process.[14] All Pegged Orders and Mid-Point Peg Orders would be eligible for execution in the Opening Process based on their pegged prices.[15] Orders cancelled before the Opening Process and orders not designated RHO would not be eligible to participate in the Opening Process.[16]

Pursuant to proposed Rule 11.23(a)(1), during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process, all non-RHO orders, subject to order instructions, and ISOs designated RHO may execute against eligible Pre-Opening Session contra-side interest resting in the BATS Book.[17] The Exchange has proposed to convert any unexecuted portion of an ISO designated RHO entered during this period into a non-ISO and queue the order for participation in the Opening Process.[18]

The Exchange has proposed to implement the Opening Process shortly after the beginning of Regular Trading Hours, at which point the Exchange would attempt to execute all orders eligible for the Opening Process in a particular security at the midpoint of the NBBO.[19] All such orders would be processed in time sequence beginning with the order with the oldest time stamp, and would be matched until there is no remaining volume or there is an order imbalance.[20] All MTP modifiers would be ignored during the matching process.[21] If no matches can be made, or if orders are not executed in whole or part due to an imbalance, the Opening Process would conclude with all orders that participated in the Opening Process being placed in the BATS Book, cancelled, executed, or routed to away Trading Centers[22] in accordance with Rule 11.13(a)(2).[23] The Exchange notes that because an RHO order is not executable until the Opening Process (rather than upon entry), to the extent that any RHO order is not executed during the Opening Process and is placed on the BATS Book, such order will receive a time stamp that reflects the time that the order was placed on the BATS Book during the Opening Process and not the time that the order was entered for queuing.[24]

Under proposed Rule 11.23(c), the NBBO that the Exchange would use for purposes of setting the Opening Process price would be: (a) When the listing exchange is either the NYSE or NYSE MKT, the first NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time, or the then-prevailing NBBO when the first two-sided quotation is published by the listing exchange after 9:30:00 a.m. Eastern Time, if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange; or (b) for any other listing market, the first NBBO disseminated after 9:30:00 a.m. Eastern Time.[25] The Exchange has proposed to differentiate its calculation of the NBBO for NYSE and NYSE MKT-listed securities from its calculation of the NBBO for securities listed on other exchanges because NYSE and NYSE MKT do not offer continuous trading prior to 9:30:00 a.m. Eastern Time whereas the other listing exchanges do offer continuous trading prior to 9:30:00 a.m. Eastern Time. Thus, according to the Exchange, the market for trading in NYSE and NYSE MKT-listed securities may take a moment to develop after 9:30:00 a.m. Eastern Time whereas the market for securities listed on other exchanges is more fully developed immediately after 9:30:00 a.m. Eastern Time.[26]

If the conditions to establish the price of the Opening Process set forth under proposed Rule 11.23(c) do not occur by 9:45:00 a.m. Eastern Time, the Exchange has proposed to implement a contingent opening process (the ''Contingent Open Process'') under which, instead of being matched at the midpoint of the NBBO, orders would be handled in time sequence, beginning with the order with the oldest time stamp, and placed on the BATS Book, routed, cancelled, or executed in accordance with the terms of the order.[27] The Exchange notes that, because an RHO order is not executable until the Opening Process (rather than upon entry), any order subject to the Contingent Open Process that is placed on the BATS Book would receive a time stamp that reflects the time that the order was placed on the BATS Book during the Opening Process and not the time that the order was entered for queuing.[28]

In addition, the Exchange has proposed that, in the event of a Halt, all outstanding orders in the System[29] will remain on the BATS Book except where a User has designated that its orders be cancelled.[30] While a security is subject to a Halt, the Exchange would accept and queue orders, prior to the resumption of trading in the security, for participation in the Re-Opening Process.[31] The Re-Opening Process would occur in the same manner as the Opening Process described above, with the following exceptions: (1) Non-RHO orders would be eligible for

[7] NBBO is defined in Rule 1.5(o).

[8] Only orders designated RHO would be queued for Opening Process participation when submitted during the Pre-Opening Session; orders not so designated would continue to be executable immediately upon entry during the Pre-Opening Session.

[9] *See* proposed Rule 11.9(b)(7). The Exchange also has proposed to delete the word ''limit'' from Rule 11.9(b) because a RHO order can be either a limit order or a market order. *See* proposed Rule 11.9(b).

[10] User is defined in Rule 1.5(cc).

[11] *See* proposed Rule 11.23(a).

[12] *See* proposed Rule 11.23(a)(2). For the definitions of BYX's order types, *see* Rule 11.9.

[13] *See* proposed Rule 11.23(a)(2).

[14] *Id.*

[15] *Id.*

[16] *See* proposed Rule 11.23(a).

[17] *See* proposed Rule 11.23(a)(1).

[18] *Id.*

[19] *See* proposed Rule 11.23(a)(3).

[20] *Id.* According to the Exchange, time priority is more appropriate for the Opening Process than price-time priority because the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the midpoint of the NBBO. As such, the Exchange believes that there is no reason to reward a more aggressive order with priority in the Opening Process. *See* Notice, *supra* note 3, 79 FR at 56412–13.

[21] *See* proposed Rule 11.23(b).

[22] Trading Center is defined in Rule 2.11(a).

[23] *See* proposed Rule 11.23(b).

[24] *See* Notice, *supra* note 3, 79 FR at 56413.

[25] *See* proposed Rule 11.23(c).

[26] *See* Notice, *supra* note 3, 79 FR at 56413.

[27] *See* proposed Rule 11.23(d).

[28] *See* Notice, *supra* note 3, 79 FR at 56413.

[29] System is defined in Rule 1.5(aa).

[30] *See* proposed Rule 11.18(f).

[31] *See* proposed Rule 11.23(e).

participation in the re-opening, but IOC, FOK, BATS Post Only Orders, Partial Post Only at Limit Orders, and Minimum Quantity Orders would be cancelled or rejected, as applicable, and any ISO that is not IOC or FOK would be converted into a non-ISO and be queued for participation in the re-opening; and (2) the re-opening would occur at the midpoint of: (i) The first NBBO subsequent to the first reported trade on the listing exchange following the resumption of trading after a Halt; or (ii) the NBBO when the first two-sided quotation is published by the listing exchange following the resumption of trading after a Halt if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange.[32] The Exchange has proposed that, where neither of the above conditions required to establish the price of the re-opening have occurred, the security may be re-opened for trading at the discretion of the Exchange and orders will be handled in the same manner as they are in the Contingent Open Process.[33]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[34] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[35] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposal is consistent with the Act because it is designed to create a more orderly process for opening and re-opening trading in securities, and to facilitate price formation. Specifically, the Exchange believes that the proposed Opening Process will create a more orderly opening for securities and help facilitate the price formation process at the beginning of Regular Trading Hours because allowing Users to enter orders during the Pre-Opening Session for queuing and participation in the Opening Process should help prevent the submission of a flood of orders immediately following the beginning of Regular Trading Hours.[36] For similar reasons, the Exchange believes that the proposed Re-Opening Process will create a more orderly re-opening in securities following a Halt and help facilitate price formation.[37] In addition, the Exchange states that allowing certain RHO orders (ISOs designated RHO) and all non-RHO orders to interact (and, in the case of non-RHO orders, to be added to the BATS Book where there is no contra-side interest) during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process will create a more orderly opening and facilitate the price formation process because Users will have the option to enter orders that will either participate in the Opening Process or immediately interact with liquidity from the Pre-Opening Session, allowing trading to continue while the Exchange is waiting for the conditions necessary to complete the Opening Process.[38]

The Exchange also believes that certain features of the Opening Process and Re-Opening Process are consistent with the Act. The Exchange states that the proposed exclusion of BATS Post Only Orders, Partial Post Only at Limit Orders, ISOs, and Minimum Quantity Orders from participation in the Opening Process is consistent with Section 6(b)(5) of the Act because such order types do not make sense in the context of queuing orders for the Opening Process.[39] Moreover, according to the Exchange, its proposal to allow an ISO marked RHO to execute against eligible Pre-Opening Session interest during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process, and then convert the unexecuted portion of the order into a non-ISO for queuing for participation in the Opening Process, is consistent with the requirements of Regulation NMS.[40] According to the Exchange, after 9:30 a.m. Eastern Time, there may be a protected bid or offer displayed by the Exchange that a User who has submitted an ISO designated RHO would like to execute against, and this aspect of the proposal would permit such an execution to occur prior to the ISO being converted into a non-ISO and queued for participation in the Opening Process.[41]

In addition, the Exchange states that the proposed Contingent Opening Process is designed 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 because it will help to ensure that the Exchange opens trading in a fair and orderly manner by providing a means for opening trading in a security when there is no two-sided NBBO in the security for fifteen minutes after the beginning of Regular Trading Hours.[42] The Exchange believes that fifteen minutes is a reasonable amount of time to wait for the establishment of a two-sided NBBO because it marks a point at which the market in a security has had a sufficient amount of time to develop while simultaneously providing a reasonable cut-off point at which the Exchange may open the security for Regular Trading Hours trading.[43] The Exchange also believes that handling all orders queued for participation in the Opening Process in time sequence after fifteen minutes will help to ensure that trading opens in as fair and orderly a manner as possible.[44]

Lastly, the Exchange states that the proposed Opening Process will provide Users with greater control and flexibility when entering orders in securities by allowing them to enter orders for participation in Regular Hours Trading during the Pre-Opening Session, rather than permitting them to enter such orders only after Regular Trading Hours have begun.[45] According to the Exchange, allowing Users that do not want to participate in the Pre-Opening Session to enter RHO orders prior to Regular Trading Hours will simplify the order entry process for such Users and remove impediments to a free and open market.[46]

For the reasons noted above, the Commission finds that the proposed

[32] *See* proposed Rule 11.23(e)(1). The Exchange has proposed to wait until the sooner of the first execution on the listing market or one second following the publication of the first two-sided quotation by the listing exchange because no continuous trading occurs on any exchange during a Halt and, according to the Exchange, waiting will provide time for the market to become more fully established before determining the price at which the Re-Opening Process will occur.

[33] *See* proposed Rule 11.23(e)(2).

[34] In approving the proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[35] 15 U.S.C. 78f(b)(5).

[36] *See* Notice, *supra* note 3, 79 FR at 564214. The Exchange further states that, because the Opening Process price will be the midpoint of the NBBO, the Opening Process will occur at a price that is based on the best available pricing under current market conditions, which also will help create a more orderly opening and facilitate the price formation process. *Id.* at 56414.

[37] *Id.* at 56414.

[38] *Id.*

[39] *Id.*

[40] *Id.; see also* 17 CFR 242.600.

[41] *See* Notice, *supra* note 3, 79 FR at 56414.

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.*

rule change is consistent with the Act, including Section 6(b)(5) of the Act,[47] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[48] that the proposed rule change, SR–BYX–2014–018, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Brent J. Fields,

Secretary.

[FR Doc. 2014–26230 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

[47] 15 U.S.C. 78f(b)(5).

[48] 15 U.S.C. 78s(b)(2).

[49] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73470; File No. SR–BX–2014–053]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule Under Exchange Rule 7018(a) With Respect to Transactions in Securities Priced at $1 per Share or More

October 30, 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 October 23, 2014, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule under Exchange Rule 7018(a) with respect to transactions in securities priced at $1 per share or more. While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on November 3, 2014.

The text of the proposed rule change is also available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to increase a credit provided to member firms applicable to transactions in securities priced at $1 or more under BX Rule 7018(a). Specifically, the Exchange proposes to increase the credit provided to all members that enter an order that executes against a midpoint pegged order. Currently, the Exchange provides a credit of $0.0003 per share executed for such an order. The Exchange is proposing to increase the credit provided to $0.0005 per share executed. The Exchange believes that the proposed increase in the credit provided to member firms for removing midpoint liquidity will encourage firms to access more resting midpoint liquidity before routing to other destinations for price improvement opportunities.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and Sections 6(b)(4) and (b)(5) of the Act,[4] in particular, because 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 that the Exchange operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers. The proposed rule change is reflective of the Exchange's ongoing efforts to use rebates and discounted execution fees to attract orders that the Exchange believes will improve market quality. Generally, the Exchange seeks to provide members with discounts that they deem helpful, and to eliminate those that they do not.

The Exchange believes that the proposed change is reasonable because it promotes these goals by providing an increased credit to member firms that remove liquidity at the midpoint. In this regard, the Exchange believes that this credit will incentivize member firms to execute against midpoint liquidity and this, in turn, will lead to an increase in price improvement and liquidity, which generally benefits the investing public. Moreover, the proposed change is reasonable as it is a pro-competitive price reduction designed to enhance the Exchange's position in the marketplace and broaden the execution opportunities for BX members. The Exchange also believes that the proposed increase in the credit is reasonable because it reflects the availability of what is, in effect, a price reduction for all members that execute against a midpoint pegged order.

The Exchange believes that the proposed credit increase is consistent with an equitable allocation of fees and is not unfairly discriminatory because the rebate applies uniformly across all members [sic] firms and is provided to those firms that elect to execute against midpoint pegged orders. BX notes that it operates in a highly competitive market in which market participants can easily and readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities to be insufficient. In such an environment, BX must continually adjust its fees or rebates to remain competitive with other exchanges. BX believes that the proposed rule change reflects this very competitive environment because it is designed to ensure that the credits for participation on BX attract order flow that improves the market for all participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[5] BX notes that it operates in a highly competitive market in which market participants can readily favor over 40

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4), (5).

[5] 15 U.S.C. 78f(b)(8).

different competing exchanges and alternative trading systems if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, BX must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, BX believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, the increase to the credit for an order that executes against a midpoint pegged order enhances the Exchange's competitiveness by increasing a credit for a type of order activity that the Exchange seeks to encourage, thereby improving market liquidity and attracting market participants. Moreover, because there are numerous competitive alternatives to the use of the Exchange, it is likely that BX will lose market share as a result of the changes if they are unattractive to market participants. Accordingly, BX does not believe that the proposed rule changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

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 [6] and paragraph (f) of Rule 19b–4 [7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f).

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–BX–2014–053 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–BX–2014–053. 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–BX–2014–053, and should be submitted on or before November 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2014–26228 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73477; File No. SR–EDGA–2014–24]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.12, Limitation of Liability

October 30, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 27, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.12, Limitation of Liability, to harmonize its liability caps with those set forth under BATS Exchange, Inc. (''BATS'') Rule 11.16 and BATS Y-Exchange, Inc. (''BYX'') Rule 11.16.[5]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* BATS Rule 11.16(d)(1)–(3); BYX Rule 11.16(d)(1)–(3).

Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.12, Limitation of Liability, to harmonize its liability caps with those set forth under BATS Rule 11.16 and BYX Rule 11.16.[6] Earlier this year, the Exchange and its affiliate EDGX Exchange, Inc. (''EDGX'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS and BYX (together with BATS, BYX, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[7] In the context of the Merger, the BGM Affiliated Exchanges are working to align certain rules, retaining only intended differences between the BGM Affiliated Exchanges. As part of this effort, BATS and BYX recently filed proposed rule changes with the Commission to amend paragraph (f) of Rule 11.16 to align with EDGA Rule 11.12(d)(3) and (e) as well as EDGX Rule 11.12(d)(3) and (e).[8] Thus, the proposal set forth below harmonizes remaining sections of Exchange Rule 11.12 and BATS and BYX Rules 11.16 by aligning the liability caps in order to provide consistent member reimbursement requirements for users of the BGM Affiliated Exchanges.[9]

Rule 11.12 currently states that, except as provided in subsection (d) of the Rule, the Exchange and its affiliates shall not be liable for any losses, damages, or other claims arising out of the Exchange or its use. Exchange Rule 11.16(d) provides a limited exception to its general limitation of liability that allows for the payment of compensation to Members for ''losses resulting directly from the malfunction of the Exchange's physical equipment, devices and/or programming or the negligent acts or omissions of its employees'' (''Exchange Systems Issues''), subject to certain conditions. Subsection (d)(1) of Rule 11.12 limits the aggregate limits of all claims made by all Members during a single calendar month to the larger of $500,000, or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

The Exchange now proposes to renumber subsection (d)(1) of the Rule 11.12 and adopt new subsections (d)(1) and (2) under Rule 11.12 to harmonize its liability caps with those set forth under existing rules of BATS and BYX.[10] Under the proposed rule change, the Exchange would cap its liability for Exchange Systems Issues under proposed Rule 11.12(d)(1) and (2): (i) To a single Member at the greater of $100,000 or the amount recovered under any applicable insurance policy on a single trading day; (ii) to all Members at the greater of $250,000 or the amount recovered under any applicable insurance policy on a single trading day. Current Rule 11.12(d)(1) would be re-numbered as subsection (d)(3) and continue to cap the Exchange's liability to all Members at the greater of $500,000 or the amount recovered under any applicable insurance policy in a single calendar month.[11]

The Exchange also proposes to amend Rule 11.12(d)(2) to align with the proposed liability caps for a single trading day. Specifically, proposed Rule 11.12(d)(2) would be amended to clarify that, to the extent that all claims resulting from Exchange Systems Issues cannot be fully satisfied because in the aggregate they exceed the applicable maximum amount of liability provided for, then the Exchange proposes to allocate the maximum amount among all such claims arising on a single trading day or during a single calendar month, as applicable, based on the proportion that each such claim bears to the sum of all such claims. Rule 11.12(d)(2) would also be renumbered as Rule 11.12(e).

The Exchange also proposes to amend Rule 11.12(e)(4) to align with the amended liability caps as well as to renumber other sections within Rule 11.12 to mirror BATS Rule 11.16 and BYX Rule 11.16.

Implementation Date

The Exchange intends to implement the proposed rule change on or about November 6, 2014, which is the anticipated operative date of recently filed BATS and BYX proposed rule changes to align BATS and BYX Rules 11.16 with EDGA and EDGX Rules 11.12(d)(3) and (e).[12] The Exchange will announce the implementation of the proposed rule change via a trading notice to be posted on the Exchange's Web site.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[13] and furthers the objectives of Section 6(b)(5) of the Act,[14] in that it is designed promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposal, in effect, would allow the Exchange to ensure that compensation for a single incident did not exceed the monthly cap of $500,000, thereby providing [sic] enabling the Exchange to possibly compensate Members for instances on multiple trading days per month subject to Rule 11.12(d)(3). The Exchange believes that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The proposed rule change is substantially similar to the existing rules of BATS and BYX.[15] The proposed rule change is intended to align the liability caps for Member reimbursements with that currently provided by BATS and BYX in order to provide a consistent rules across the BGM Affiliated Exchanges. Consistent rules, in turn, will simplify

[6] *Id.*

[7] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[8] *See* Securities Exchange Act Release Nos. 73356 (October 15, 2014) (SR–BATS–2014–045); and 73357 (October 15, 2014) (SR–BYX–2014–027). In sum, BATS and BYX amended Rule 11.16 to align with Exchange Rule 11.12 to provide members with additional time within which to submit a written claim for compensation for ''losses resulting directly from the malfunction of the Exchange's physical equipment, devices and/or programming or the negligent acts or omissions of its employees'' and add a new paragraph (g) to Rule 11.16 to permit the Exchange, subject to certain conditions and limitations, to compensate Members for certain losses incurred in connection with orders or portions of orders routed by the Exchange through its affiliated routing broker-dealer, BATS Trading, Inc., to Trading Centers where such losses are claimed by the Member to have resulted directly from a malfunction of the physical equipment, devices and/or programming, or the negligent acts or omissions of the employees, of such Trading Centers.

[9] The Exchange understands that EDGX is to file a proposed rule change with the Commission to adopt similar requirements.

[10] *See supra* note 5.

[11] The Exchange notes that under renumbered Rule 11.12(g)(4) any compensation paid to Members from reimbursement recovered from a Trading Center for a routed order will not count against the Exchange's liability limits set forth in Rule 11.12(d), nor any applicable insurance maintained by the Exchange. Securities Exchange Act Release Nos. 71061 (December 12, 2013), 78 FR 76685 (December 18, 2013) (SR–EDGA–2013–36) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGA Rule 11.12, Limitations of Liability); and 71062 (December 12, 2013), 78 FR 76693 (December 18, 2013) (SR–EDGX–2013–45) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGX Rule 11.12, Limitations of Liability).

[12] *See supra* note 8.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *See supra* note 5.

the regulatory requirements for Members of the Exchange that are also participants on EDGA and EDGX. The proposed rule change would provide greater harmonization between EDGX and EDGA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would not impose any burden on competition. The Exchange believes that the proposed rule changes will not burden intramarket competition because all Members would be subject to the same liability caps for claims resulting from Exchange Systems Issues. The proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization among Exchange and BATS and BYX rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for common members of the BGM Affiliated Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay would provide consistent rules across the BGM Affiliated Exchanges which will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGX, BATS and BYX. In addition, the Commission notes that the proposed rule change is identical to the existing rules of BATS and BYX. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[20] The Commission hereby grants the Exchange's request and designates the proposal operative upon filing.

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–EDGA–2014–24 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–EDGA–2014–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2014–24 and should be submitted on or before November 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Brent J. Fields,

Secretary.

[FR Doc. 2014–26234 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] In addition, Rule 19b–4(f)(6)(iii) 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.

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73474; File No. SR–Phlx–2014–69]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Extension of FLEX Option No Minimum Value Size Pilot Program

October 30, 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 October 24, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Phlx Rule 1079 (FLEX Index, Equity and Currency Options) to extend a pilot program that eliminates minimum value sizes for FLEX index options and FLEX equity options (together known as ''FLEX Options'').[3]

The text of the amended Exchange rule is set forth immediately below.

Additions are *italicized* and deletions are [bracketed].

Rules of the Exchange

Options Rules

* * * * *

Rule 1079. FLEX Index, Equity and Currency Options

A Requesting Member shall obtain quotes and execute trades in certain non-listed FLEX options at the specialist post of the non-FLEX option on the Exchange. The term ''FLEX option'' means a FLEX option contract that is traded subject to this Rule. Although FLEX options are generally subject to the rules in this section, to the extent that the provisions of this Rule are inconsistent with other applicable Exchange rules, this Rule takes precedence with respect to FLEX options.

(a)–(f) No Change.

* * * *Commentary:*

.01 Notwithstanding subparagraphs (a)(8)(A)(i) and (a)(8)(A)(ii) above, for a pilot period ending the earlier of [October 31, 2014] *February 28, 2015,* or the date on which the pilot is approved on a permanent basis, there shall be no minimum value size requirements for FLEX options.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Phlx Rule 1079 (FLEX Index, Equity and Currency Options) to extend a pilot program that eliminates minimum value sizes for FLEX Options (the ''Pilot Program'' or ''Pilot'').

Rule 1079 deals with the process of listing and trading FLEX equity, index, and currency options on the Exchange. Rule 1079(a)(8)(A) currently sets the minimum opening transaction value size in the case of a FLEX Option in a newly established (opening) series if there is no open interest in the particular series when a Request-for-Quote (''RFQ'') is submitted (except as provided in Commentary .01 to Rule 1079): (i) $10 million underlying equivalent value, respecting FLEX market index options, and $5 million underlying equivalent value respecting FLEX industry index options;[4] (ii) the lesser of 250 contracts or the number of contracts overlying $1 million in the underlying securities, with respect to FLEX equity options (together the ''minimum value size'').[5]

Presently, Commentary .01 to Rule 1079 states that by virtue of the Pilot Program ending October 31, 2014, or the date on which the pilot is approved on a permanent basis, there shall be no minimum value size requirements for FLEX Options as noted in subsections (a)(8)(A)(i) and (a)(8)(A)(ii) of Rule 1079.[6]

The Exchange now proposes to extend the Pilot Program for a pilot period ending the earlier of February 28, 2015, or the date on which the Pilot is approved on a permanent basis.[7]

The Exchange believes that there is sufficient investor interest and demand in the Pilot Program to warrant an extension. The Exchange believes that the Pilot Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Extension of the Pilot Program would continue to provide greater opportunities for traders and investors to manage risk through the use of FLEX Options, including investors that may otherwise trade in the unregulated over the counter (''OTC'') market where similar size restrictions do not apply.[8]

In support of the proposed extension of the Pilot Program, the Exchange has under separate cover submitted to the Commission a Pilot Program Report

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In addition to FLEX Options, FLEX currency options are also traded on the Exchange. These flexible index, equity, and currency options provide investors the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices; and may have expiration dates within five years. *See* Rule 1079. FLEX currency options traded on the Exchange are also known as FLEX World Currency Options (''WCO'') or Foreign Currency Options (''FCO''). The pilot program discussed herein does not encompass FLEX currency options.

[4] Market index options and industry index options are broad-based index options and narrow-based index options, respectively. *See* Rule 1000A(b)(11) and (12).

[5] Subsection (a)(8)(A) also provides a third alternative: (iii) 50 contracts in the case of FLEX currency options. However, this alternative is not part of the Pilot Program.

[6] *See* Securities Exchange Act Release No. 67094 (June 1, 2012), 77 FR 33796 (June 7, 2012) (SR–Phlx–2012–76) (notice of filing and immediate effectiveness of proposal to extend Pilot Program). The Pilot Program was instituted in 2010. *See* Securities Exchange Act Release No. 62900 (September 13, 2010), 75 FR 57098 (September 17, 2010) (SR–Phlx–2010–123) (notice of filing and immediate effectiveness of proposal to institute Pilot Program).

[7] The Exchange notes that any positions established under this Pilot would not be impacted by the expiration of the Pilot. For example, a 10-contract FLEX equity option opening position that overlies less than $1 million in the underlying security and expires in January 2015 could be established during the Pilot. If the Pilot Program were not extended, the position would continue to exist and any further trading in the series would be subject to the minimum value size requirements for continued trading in that series.

[8] The Exchange has not experienced any adverse market effects with respect to the Pilot Program.

(''Report'') that provides an analysis of the Pilot Program covering the period during which the Pilot has been in effect. This Report includes: (i) Data and analysis on the open interest and trading volume in (a) FLEX equity options that have an opening transaction with a minimum size of 0 to 249 contracts and less than $1 million in underlying value; (b) FLEX index options that have an opening transaction with a minimum opening size of less than $10 million in underlying equivalent value; and (ii) analysis of the types of investors that initiated opening FLEX Options transactions (*i.e.,* institutional, high net worth, or retail). The Report has been submitted to the Commission and the Exchange has requested confidential treatment under the Freedom of Information Act.[9]

2. Statutory Basis

The Exchange's proposal is consistent with Section 6(b) of the Act [10] in general, and furthers the objectives of Section 6(b)(5) of the Act [11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. Specifically, the Exchange believes that the proposed extension of the Pilot Program, which eliminates the minimum value size applicable to opening transactions in new series of FLEX Options, would provide greater opportunities for investors to manage risk through the use of FLEX Options. The Exchange notes that it has not experienced any adverse market effects with respect to the Pilot Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal would give traders and investors the opportunity to more effectively tailor their trading, investing and hedging through FLEX options traded on the Exchange. Prior to the Pilot, options that represented opening transactions in new series that could not meet a minimum value size could not trade via FLEX on the Exchange, but rather had to trade OTC. Extension of the Pilot enables such options to continue to trade on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may seamlessly continue its Pilot Program without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[16] The Commission notes that waiving the 30-day operative delay would prevent the expiration of the Pilot Program on October 31, 2014, prior to the extension of the pilot program becoming operative. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-Phlx-2014–69 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2014–69. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments

[9] 5 U.S.C. section 552. The Exchange notes that it expects to file a proposal for permanent approval of the Pilot Program. With this proposal, the Exchange will submit a Report that is publicly available. In the event the Pilot Program is not permanently approved by February 28, 2015, the Exchange will submit an additional Report covering the extended Pilot period.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, 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.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–69 and should be submitted on or before November 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Brent J. Fields,

Secretary.

[FR Doc. 2014–26232 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73473; File No. SR–BATS–2014–037]

Self-Regulatory Organizations; BATS Exchange, Inc.; Order Granting Approval of a Proposed Rule Change To Establish an Opening Process for Non-BATS-Listed Securities

October 30, 2014.

I. Introduction

On September 3, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to add new BATS Rule (''Rule'') 11.24, entitled ''Opening Process for Non-BATS-Listed Securities,'' and to make several corresponding changes, in order to modify the manner in which the Exchange opens trading for non-BATS-listed securities at the beginning of the day and after trading halts. The proposed rule change was published for comment in the **Federal Register** on September 19, 2014.[3] The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange has proposed to implement a process for opening trading in non-BATS-listed securities at the beginning of Regular Trading Hours[4] and re-opening trading in such securities following a trading halt. Currently, the Exchange accepts orders in non-BATS-listed securities during the Pre-Opening Session,[5] and any such orders are immediately eligible for execution. Orders that are on the BATS Book[6] at the beginning of Regular Trading Hours remain on the BATS Book, subject to the User's instructions, and trading continues into Regular Trading Hours without any transition period. Upon a halt, the Exchange currently cancels all orders on the BATS Book, except Eligible Auction Orders,[7] and does not accept any orders until the halt is lifted. The time-in-force of Regular Hours Only (''RHO'')[8] that the Exchange currently offers is not available for non-BATS-listed securities (it is only available for BATS-listed securities).

Under the proposal, the Exchange would amend its rules to allow orders in non-BATS-listed securities to be designated RHO, and would accept and queue any such orders during the Pre-Opening Session for execution at the midpoint of the NBBO[9] shortly after the beginning of Regular Trading Hours (the ''Opening Process'').[10] The Exchange also has proposed to implement a similar process for re-opening trading after a halt, suspension, or pause (collectively, a ''Halt''), under which a User's orders would remain on the BATS Book unless the User has designated that they be cancelled upon a Halt (the ''Re-Opening Process'').

Specifically, the Exchange has proposed to replace current Rule 11.23(a)(22) with proposed new Rule 11.9(b)(7), which would re-define RHO as a time-in-force modifier that applies to all securities, both BATS-listed and non-BATS-listed.[11] Prior to the beginning of Regular Trading Hours, Users[12] that wish to participate in the Opening Process for a non-BATS-listed security may enter orders to buy or sell with a time in force of RHO.[13] All orders that are marked as RHO may participate in the Opening Process except BATS Post Only Orders, Partial Post Only at Limit Orders, ISO orders not modified by Rule 11.24(a)(1) (as described below), and Minimum Quantity Orders.[14] Limit orders with a Reserve Quantity could participate to the full extent of their displayed size and Reserve Quantity.[15] Discretionary Orders could participate only up to their ranked price for buy orders or down to their ranked price for sell orders; the discretionary range of such orders would not be eligible for participation in the Opening Process.[16] All Pegged Orders and Mid-Point Peg Orders would be eligible for execution in the Opening Process based on their pegged prices.[17] Orders cancelled before the Opening Process and orders not designated RHO would not be eligible to participate in the Opening Process.[18]

Pursuant to proposed Rule 11.24(a)(1), during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process, all non-RHO orders, subject to order instructions, and ISOs designated RHO may execute against eligible Pre-Opening Session contra-side interest resting in the BATS Book.[19] The Exchange has proposed to convert any unexecuted portion of an ISO designated RHO entered during this period into a non-ISO and queue the order for participation in the Opening Process.[20]

The Exchange has proposed to implement the Opening Process shortly after the beginning of Regular Trading Hours, at which point the Exchange would attempt to execute all orders eligible for the Opening Process in a particular non-BATS-listed security at the midpoint of the NBBO.[21] All such orders would be processed in time sequence beginning with the order with the oldest time stamp, and would be matched until there is no remaining volume or there is an order imbalance.[22] All MTP modifiers would be ignored

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73093 (September 15, 2014), 79 FR 56421 (''Notice'').

[4] Regular Trading Hours is defined in Rule 1.5(w).

[5] Pre-Opening Session is defined in Rule 1.5(r).

[6] BATS Book is defined in Rule 1.5(e).

[7] Eligible Auction Order is defined in Rule 11.23(a)(8).

[8] Regular Hours Only is currently defined in Rule 11.23(a)(22) but, as described *infra,* the Exchange has proposed to replace Rule 11.23(a)(22) with proposed Rule 11.9(b)(7).

[9] NBBO is defined in BATS Rule 1.5(o).

[10] Only orders designated RHO would be queued for Opening Process participation when submitted during the Pre-Opening Session; orders not so designated would continue to be executable immediately upon entry during the Pre-Opening Session.

[11] *See* proposed Rule 11.9(b)(7). Proposed Rule 11.9(b)(7) also would specify that any remaining portion of market RHO order will be cancelled immediately following any auction in which it is not executed. *Id.* The Exchange also has proposed to delete the word ''limit'' from Rule 11.9(b) because a RHO order can be either a limit order or a market order. *See* proposed Rule 11.9(b).

[12] User is defined in Rule 1.5(cc).

[13] *See* proposed Rule 11.24(a).

[14] *See* proposed Rule 11.24(a)(2). For the definitions of BATS' order types, *see* Rule 11.9.

[15] *See* proposed Rule 11.24(a)(2).

[16] *Id.*

[17] *Id.*

[18] *See* proposed Rule 11.24(a).

[19] *See* proposed Rule 11.24(a)(1).

[20] *Id.*

[21] *See* proposed Rule 11.24(a)(3).

[22] *Id.* According to the Exchange, time priority is more appropriate for the Opening Process than price-time priority because the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the midpoint of the NBBO. As such, the Exchange believes that there is no reason to reward a more aggressive order with priority in the Opening Process. *See* Notice, *supra* note 3, 79 FR at 56422.

during the matching process.[23] If no matches can be made, or if orders are not executed in whole or part due to an imbalance, the Opening Process would conclude with all orders that participated in the Opening Process being placed in the BATS Book, cancelled, executed, or routed to away Trading Centers [24] in accordance with Rule 11.13(a)(2).[25] The Exchange notes that because an RHO order is not executable until the Opening Process (rather than upon entry), to the extent that any RHO order is not executed during the Opening Process and is placed on the BATS Book, such order will receive a time stamp that reflects the time that the order was placed on the BATS Book during the Opening Process and not the time that the order was entered for queuing.[26]

Under proposed Rule 11.24(c), the NBBO that the Exchange would use for purposes of setting the Opening Process price would be: (a) When the listing exchange is either the NYSE or NYSE MKT, the first NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time, or the then-prevailing NBBO when the first two-sided quotation is published by the listing exchange after 9:30:00 a.m. Eastern Time, if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange; or (b) for any other listing market except for the Exchange, the first NBBO disseminated after 9:30:00 a.m. Eastern Time.[27] The Exchange has proposed to differentiate its calculation of the NBBO for NYSE and NYSE MKT-listed securities from its calculation of the NBBO for securities listed on other exchanges because NYSE and NYSE MKT do not offer continuous trading prior to 9:30:00 a.m. Eastern Time whereas the other listing exchanges do offer continuous trading prior to 9:30:00 a.m. Eastern Time. Thus, according to the Exchange, the market for trading in NYSE and NYSE MKT-listed securities may take a moment to develop after 9:30:00 a.m. Eastern Time whereas the market for securities listed on other exchanges is more fully developed immediately after 9:30:00 a.m. Eastern Time.[28]

If the conditions to establish the price of the Opening Process set forth under proposed Rule 11.24(c) do not occur by 9:45:00 a.m. Eastern Time, the Exchange has proposed to implement a contingent opening process (the ''Contingent Open Process'') under which, instead of being matched at the midpoint of the NBBO, orders would be handled in time sequence, beginning with the order with the oldest time stamp, and placed on the BATS Book, routed, cancelled, or executed in accordance with the terms of the order.[29] The Exchange notes that, because an RHO order is not executable until the Opening Process (rather than upon entry), any order subject to the Contingent Open Process that is placed on the BATS Book would receive a time stamp that reflects the time that the order was placed on the BATS Book during the Opening Process and not the time that the order was entered for queuing.[30]

In addition, the Exchange has proposed that, in the event of a Halt, all outstanding orders in the System [31] will remain on the BATS Book except where a User has designated that its orders be cancelled.[32] While a non-BATS-listed security is subject to a Halt, the Exchange would accept and queue orders, prior to the resumption of trading in the security, for participation in the Re-Opening Process.[33] The Re-Opening Process would occur in the same manner as the Opening Process described above, with the following exceptions: (1) Non-RHO orders would be eligible for participation in the re-opening, but IOC, FOK, BATS Post Only Orders, Partial Post Only at Limit Orders, and Minimum Quantity Orders would be cancelled or rejected, as applicable, and any ISO that is not IOC or FOK would be converted into a non-ISO and be queued for participation in the re-opening; and (2) the re-opening would occur at the midpoint of: (i) The first NBBO subsequent to the first reported trade on the listing exchange following the resumption of trading after a Halt; or (ii) the NBBO when the first two-sided quotation is published by the listing exchange following the resumption of trading after a Halt if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange.[34] The Exchange has proposed that, where neither of the above conditions required to establish the price of the re-opening have occurred, the security may be re-opened for trading at the discretion of the Exchange and orders will be handled in the same manner as they are in the Contingent Open Process.[35]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[36] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[37] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposal is consistent with the Act because it is designed to create a more orderly process for opening and re-opening trading in non-BATS-listed securities, and to facilitate price formation. Specifically, the Exchange believes that the proposed Opening Process will create a more orderly opening for non-BATS-listed securities and help facilitate the price formation process at the beginning of Regular Trading Hours because allowing Users to enter orders during the Pre-Opening Session for queuing and participation in the Opening Process should help prevent the submission of a flood of orders immediately following the beginning of Regular Trading Hours.[38] For similar reasons, the Exchange believes that the proposed Re-Opening Process will create a more orderly re-opening in non-BATS-listed securities following a Halt and help facilitate price formation.[39] In addition, the Exchange

[23] *See* proposed Rule 11.24(b).

[24] Trading Center is defined in Rule 2.11(a).

[25] *See* proposed Rule 11.24(b).

[26] *See* Notice, *supra* note 3, 79 FR at 56423.

[27] *See* proposed Rule 11.24(c).

[28] *See* Notice, *supra* note 3, 79 FR at 56423.

[29] *See* proposed Rule 11.24(d).

[30] *See* Notice, *supra* note 3, 79 FR at 56423.

[31] System is defined in Rule 1.5(aa).

[32] *See* proposed Rule 11.18(f).

[33] *See* proposed Rule 11.24(e).

[34] *See* proposed Rule 11.24(e)(1). The Exchange has proposed to wait until the sooner of the first execution on the listing market or one second following the publication of the first two-sided quotation by the listing exchange because no continuous trading occurs on any exchange during a Halt and, according to the Exchange, waiting will provide time for the market to become more fully established before determining the price at which the Re-Opening Process will occur.

[35] *See* proposed Rule 11.24(e)(2).

[36] In approving the proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[37] 15 U.S.C. 78f(b)(5).

[38] *See* Notice, *supra* note 3, 79 FR at 56423–24. The Exchange further states that, because the Opening Process price will be the midpoint of the NBBO, the Opening Process will occur at a price that is based on the best available pricing under current market conditions, which also will help create a more orderly opening and facilitate the price formation process. *Id.* at 56424.

[39] *Id.* at 56424.

states that allowing certain RHO orders (ISOs designated RHO) and all non-RHO orders to interact (and, in the case of non-RHO orders, to be added to the BATS Book where there is no contra-side interest) during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process will create a more orderly opening and facilitate the price formation process because Users will have the option to enter orders that will either participate in the Opening Process or immediately interact with liquidity from the Pre-Opening Session, allowing trading to continue while the Exchange is waiting for the conditions necessary to complete the Opening Process.[40]

The Exchange also believes that certain features of the Opening Process and Re-Opening Process are consistent with the Act. The Exchange states that the proposed exclusion of BATS Post Only Orders, Partial Post Only at Limit Orders, ISOs, and Minimum Quantity Orders from participation in the Opening Process is consistent with Section 6(b)(5) of the Act because such order types do not make sense in the context of queuing orders for the Opening Process.[41] Moreover, according to the Exchange, its proposal to allow an ISO marked RHO to execute against eligible Pre-Opening Session interest during the period between 9:30 a.m. Eastern Time and the occurrence of the Opening Process, and then convert the unexecuted portion of the order into a non-ISO for queuing for participation in the Opening Process, is consistent with the requirements of Regulation NMS.[42] According to the Exchange, after 9:30 a.m. Eastern Time, there may be a protected bid or offer displayed by the Exchange that a User who has submitted an ISO designated RHO would like to execute against, and this aspect of the proposal would permit such an execution to occur prior to the ISO being converted into a non-ISO and queued for participation in the Opening Process.[43]

In addition, the Exchange states that the proposed Contingent Opening Process is designed 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 because it will help to ensure that the Exchange opens trading in a fair and orderly manner by providing a means for opening trading in a non-BATS-listed security when there is no two-sided NBBO in the security for fifteen minutes after the beginning of Regular Trading Hours.[44] The Exchange believes that fifteen minutes is a reasonable amount of time to wait for the establishment of a two-sided NBBO because it marks a point at which the market in a security has had a sufficient amount of time to develop while simultaneously providing a reasonable cut-off point at which the Exchange may open the security for Regular Trading Hours trading.[45] The Exchange also believes that handling all orders queued for participation in the Opening Process in time sequence after fifteen minutes will help to ensure that trading opens in as fair and orderly a manner as possible.[46]

Lastly, the Exchange states that the proposed Opening Process will provide Users with greater control and flexibility when entering orders in non-BATS-listed securities by allowing them to enter orders for participation in Regular Hours Trading during the Pre-Opening Session, rather than permitting them to enter such orders only after Regular Trading Hours have begun.[47] According to the Exchange, allowing Users that do not want to participate in the Pre-Opening Session to enter RHO orders prior to Regular Trading Hours will simplify the order entry process for such Users and remove impediments to a free and open market.[48]

For the reasons noted above, the Commission finds that the proposed rule change is consistent with the Act, including Section 6(b)(5) of the Act,[49] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[50] that the proposed rule change, SR–BATS–2014–037, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[51]

Brent J. Fields,

Secretary.

[FR Doc. 2014–26231 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

[40] *Id.*

[41] *Id.*

[42] *Id.; see also* 17 CFR 242.600.

[43] *See* Notice, *supra* note 3, 79 FR at 56424.

[44] *Id.*

[45] *Id.*

[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] 15 U.S.C. 78f(b)(5).

[50] 15 U.S.C. 78s(b)(2).

[51] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73476; File No. SR–EDGX–2014–24]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 11.12, Limitation of Liability

October 30, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 27, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.12, Limitation of Liability, to harmonize its liability caps with those set forth under BATS Exchange, Inc. (''BATS'') Rule 11.16 and BATS Y-Exchange, Inc. (''BYX'') Rule 11.16.[5]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* BATS Rule 11.16(d)(1)–(3); BYX Rule 11.16(d)(1)–(3).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.12, Limitation of Liability, to harmonize its liability caps with those set forth under BATS Rule 11.16 and BYX Rule 11.16.[6] Earlier this year, the Exchange and its affiliate EDGA Exchange, Inc. (''EDGA'') received approval to effect a merger (the ''Merger'') of the Exchange's parent company, Direct Edge Holdings LLC, with BATS Global Markets, Inc., the parent of BATS and BYX (together with BATS, BYX, EDGA and EDGX, the ''BGM Affiliated Exchanges'').[7] In the context of the Merger, the BGM Affiliated Exchanges are working to align certain rules, retaining only intended differences between the BGM Affiliated Exchanges. As part of this effort, BATS and BYX recently filed proposed rule changes with the Commission to amend paragraph (f) of Rule 11.16 to align with EDGA Rule 11.12(d)(3) and (e) as well as EDGX Rule 11.12(d)(3) and (e).[8] Thus, the proposal set forth below harmonizes remaining sections of Exchange Rule 11.12 and BATS and BYX Rules 11.16 by aligning the liability caps in order to provide consistent member reimbursement requirements for users of the BGM Affiliated Exchanges.[9]

Rule 11.12 currently states that, except as provided in subsection (d) of the Rule, the Exchange and its affiliates shall not be liable for any losses, damages, or other claims arising out of the Exchange or its use. Exchange Rule 11.16(d) provides a limited exception to its general limitation of liability that allows for the payment of compensation to Members for ''losses resulting directly from the malfunction of the Exchange's physical equipment, devices and/or programming or the negligent acts or omissions of its employees'' (''Exchange Systems Issues''), subject to certain conditions. Subsection (d)(1) of Rule 11.12 limits the aggregate limits of all claims made by all Members during a single calendar month to the larger of $500,000, or the amount of any recovery obtained by the Exchange under any applicable insurance maintained by the Exchange.

The Exchange now proposes to renumber subsection (d)(1) of the Rule 11.12 and adopt new subsections (d)(1) and (2) under Rule 11.12 to harmonize its liability caps with those set forth under existing rules of BATS and BYX.[10] Under the proposed rule change, the Exchange would cap its liability for Exchange Systems Issues under proposed Rule 11.12(d)(1) and (2): (i) To a single Member at the greater of $100,000 or the amount recovered under any applicable insurance policy on a single trading day; (ii) to all Members at the greater of $250,000 or the amount recovered under any applicable insurance policy on a single trading day. Current Rule 11.12(d)(1) would be re-numbered as subsection (d)(3) and continue to cap the Exchange's liability to all Members at the greater of $500,000 or the amount recovered under any applicable insurance policy in a single calendar month.[11]

The Exchange also proposes to amend Rule 11.12(d)(2) to align with the proposed liability caps for a single trading day. Specifically, proposed Rule 11.12(d)(2) would be amended to clarify that, to the extent that all claims resulting from Exchange Systems Issues cannot be fully satisfied because in the aggregate they exceed the applicable maximum amount of liability provided for, then the Exchange proposes to allocate the maximum amount among all such claims arising on a single trading day or during a single calendar month, as applicable, based on the proportion that each such claim bears to the sum of all such claims. Rule 11.12(d)(2) would also be renumbered as Rule 11.12(e).

The Exchange also proposes to amend Rule 11.12(e)(4) to align with the amended liability caps as well as to renumber other sections within Rule 11.12 to mirror BATS Rule 11.16 and BYX Rule 11.16.

Implementation Date

The Exchange intends to implement the proposed rule change on or about November 6, 2014, which is the anticipated operative date of recently filed BATS and BYX proposed rule changes to align BATS and BYX Rules 11.16 with EDGA and EDGX Rules 11.12(d)(3) and (e).[12] The Exchange will announce the implementation of the proposed rule change via a trading notice to be posted on the Exchange's Web site.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[13] and furthers the objectives of Section 6(b)(5) of the Act,[14] in that it is designed promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposal, in effect, would allow the Exchange to ensure that compensation for a single incident did not exceed the monthly cap of $500,000, thereby providing [sic] enabling the Exchange to possibly compensate Members for instances on multiple trading days per month subject to Rule 11.12(d)(3). The Exchange believes that

[6] *Id.*

[7] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43; SR–EDGA–2013–34).

[8] *See* Securities Exchange Act Release Nos. 73356 (October 15, 2014) (SR–BATS–2014–045); and 73357 (October 15, 2014) (SR–BYX–2014–027). In sum, BATS and BYX amended Rule 11.16 to align with Exchange Rule 11.12 to provide members with additional time within which to submit a written claim for compensation for ''losses resulting directly from the malfunction of the Exchange's physical equipment, devices and/or programming or the negligent acts or omissions of its employees'' and add a new paragraph (g) to Rule 11.16 to permit the Exchange, subject to certain conditions and limitations, to compensate Members for certain losses incurred in connection with orders or portions of orders routed by the Exchange through its affiliated routing broker-dealer, BATS Trading, Inc., to Trading Centers where such losses are claimed by the Member to have resulted directly from a malfunction of the physical equipment, devices and/or programming, or the negligent acts or omissions of the employees, of such Trading Centers.

[9] The Exchange understands that EDGA is to file a proposed rule change with the Commission to adopt similar requirements.

[10] *See supra* note 5.

[11] The Exchange notes that under renumbered Rule 11.12(g)(4) any compensation paid to Members from reimbursement recovered from a Trading Center for a routed order will not count against the Exchange's liability limits set forth in Rule 11.12(d), nor any applicable insurance maintained by the Exchange. Securities Exchange Act Release Nos. 71061 (December 12, 2013), 78 FR 76685 (December 18, 2013) (SR–EDGA–2013–36) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGX Rule 11.12, Limitations of Liability); and 71062 (December 12, 2013), 78 FR 76693 (December 18, 2013) (SR–EDGX–2013–45) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGX Rule 11.12, Limitations of Liability).

[12] *See supra* note 8.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The proposed rule change is substantially similar to the existing rules of BATS and BYX.[15] The proposed rule change is intended to align the liability caps for Member reimbursements with that currently provided by BATS and BYX in order to provide a consistent rules across the BGM Affiliated Exchanges. Consistent rules, in turn, will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGA and EDGX. The proposed rule change would provide greater harmonization between EDGX and EDGA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change would not impose any burden on competition. The Exchange believes that the proposed rule changes will not burden intramarket competition because all Members would be subject to the same liability caps for claims resulting from Exchange Systems Issues. The proposed rule change is not designed to address any competitive issues but rather is designed to provide greater harmonization among Exchange and BATS and BYX rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for common members of the BGM Affiliated Exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay would provide consistent rules across the BGM Affiliated Exchanges which will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGA, BATS and BYX. In addition, the Commission notes that the proposed rule change is identical to the existing rules of BATS and BYX. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[20] The Commission hereby grants the Exchange's request and designates the proposal operative upon filing.

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–EDGX–2014–24 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–EDGX–2014–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2014–24 and should be submitted on or November 26, 2014.

[15] *See supra* note 5.

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] In addition, Rule 19b–4(f)(6)(iii) 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.

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Brent J. Fields,

Secretary.

[FR Doc. 2014–26233 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73488; File No. SR–C2–2014–020]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Automatic Handling Process in No-Bid Series

October 31, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 2014, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding its automatic order handling process. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules regarding its automatic order handling process. The proposed rule change seeks to modify subparagraph (h) to Rule 6.12, which sets forth how the C2 System (the ''System'')[3] handles market orders to sell in option series for which the national best bid in the series is zero (''no-bid series'').[4] Currently, if the System receives during the trading day or has resting in the electronic book (the ''Book'')[5] after the opening of trading a market order to sell in a no-bid series, it handles the order as follows:

- If the Exchange best offer in that series is less than or equal to $0.30, then the System will consider, for the remainder of the trading day, the market order as a limit order to sell with a limit price equal to the minimum trading increment applicable to the series and enter the order into the Book behind limit orders to sell at the minimum increment that are already resting in the Book.
- If the Exchange best offer in that series is greater than $0.30, then the market order will be cancelled.

Based on experience since the implementation of this parameter, the Exchange now proposes to change the parameter from $0.30 to $0.50. The Exchange believes that the automatic handling of market orders to sell in no-bid series if the Exchange best offer is less than or equal to $0.50 would reduce the number of orders that are automatically cancelled. Additionally, the $0.50 threshold serves as a protection feature for investors in certain situations, such as when a series is no-bid because the last bid traded just prior to the entry of the market order to sell. The purpose of this threshold is to limit the automatic booking of market orders to sell at minimum increments to only those for true zero-bid options, as options in no-bid series with an offer of more than $0.50 are less likely to be worthless.

For example, if the CBOE Hybrid System receives a market order to sell in a no-bid series with a minimum increment of $0.01 and the Exchange best offer is $0.01, the System will consider, for the remainder of the trading day, the order as a limit order with a price of $0.01 and submit it to the Book behind other limit orders to sell at the minimum increment that are already resting in the Book. At that point, even if the series is no-bid because, for example, the last bid just traded and the limit order trades at $0.01, the next bid entered after the trade would not be higher than $0.01.[6]

However, if the System receives a market order to sell in a no-bid series with a minimum increment of $0.01 and the Exchange best offer is $1.20 (because, for example, the last bid of $1.00 just traded and a new bid has not yet populated the Exchange's quote), the System will instead cancel the order. It would be unfair to the entering firm to let its market order trade as a limit order for $0.01 because, for example, the firm submitted the order during the brief time when there were no disseminated bids in a series trading significantly higher than the minimum increment.

The Exchange believes the threshold of $0.50 is reasonable. The Exchange notes that this threshold is less than the current acceptable price range (''APR'') parameter for series with a bid price of less than $100.00.[7] Pursuant to the price check provision in Rule 6.17[8] the

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The System is the automated trading system used by the Exchange for the trading of options contracts.

[4] The Exchange notes that, for singly listed series, the national best bid is equivalent to the Exchange's best bid and the national best offer is equivalent to the Exchange's best offer.

[5] For example, the Exchange receives a market order to sell prior to the opening of a series and the series opens with a sell market order imbalance pursuant to Rule 6.11(e)(4). When the series opens the market order to sell, which was resting in the book prior to the opening of the series, will be routed according to the no-bid procedures in Rule 6.12.

[6] If the order does not execute during the trading day as a limit order and remains outstanding after the close of trading (i.e., a GTC order), the System at that time will no longer consider the order as a limit order and will again handle the order as a market order to sell after the close of trading. The market order will stay on the Book until the opening of the next trading day (or until cancelled), at which point it may execute during the open or, if it remains unexecuted after the opening of trading, it will either execute with the best bid at the time or, if the series is still no-bid, again be handled pursuant to proposed Rule 6.12(h).

[7] The acceptable APR parameter is determined by the Exchange on a class-by-class basis. *See* Rule 6.17 and *C2 Regulatory Circular* RG14–020 (Operational System Settings—APR and OEPW).

[8] Rule 6.17 also provides that the System will not automatically execute eligible orders that are marketable if the execution would follow an initial partial execution on the Exchange and would be at a subsequent price that is not within an acceptable tick distance from the initial execution. The APR for purposes of Rule 6.17 is determined by the Exchange on a class-by-class basis and may not be less than $0.375 between the bid and offer for each option contract for which the bid is less than $2, $0.60 where the bid is at least $2 but does not exceed $5, $0.75 where the bid is more than $5 but does not exceed $10, $1.20 where the bid is more than $10 but does not exceed $20, and $1.50 where

Continued

System will not automatically execute a marketable order if the width between the national best bid and national best offer is not within the APR, which the Exchange has currently set at $10.00 for any bid price between $0.00 and $100. Instead, the System will cancel the order. Notwithstanding this provision, proposed Rule 6.12(h), as amended, would allow for the potential execution of market orders to sell in no-bid series with offers less than $0.50 as limit orders at the price of a minimum increment. If the threshold in proposed Rule 6.12(h) were higher, the risk of having a market order trade at a minimum increment in a series that is not truly no-bid would increase.

After the rule change is effective, the Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 90 days following the effective date. The implementation date will be no later than 180 days following the effective date and at least two weeks after the publication of the above Regulatory Circular.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the automated handling of market orders to sell in no-bid series if the Exchange best offer is $0.50 or less assists with the maintenance of fair and orderly markets and protects investors and the public interest because it provides for automated handling of these orders, ultimately resulting in more efficient executions of these orders. The Exchange believes that the $0.50 threshold also protects investors and assists with the maintenance of fair and orderly markets by preventing executions of market orders to sell in no-bid series with higher offers at potentially extreme prices in series that are not truly no-bid. The Exchange believes this threshold appropriately reflects the interests of investors, as options in no-bid series with offers higher than $0.50 are less likely to be worthless, and cancelling the orders will prevent the execution of these orders at unfavorable prices. The Exchange also believes that the $0.50 threshold promotes fair and orderly markets because market orders to sell in no-bid series with offers of $0.50 or less are likely to be individuals seeking to close out a worthless position for which automatic handling is appropriate.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. More specifically, the Exchange does not believe that the proposed rule changes will impose any burden on intramarket competition because it will be applicable to all TPHs trading on the Exchange trading floor. In addition, the Exchange does not believe the proposed changes will impose any intermarket burden because the Exchange will operate in a similar manner only with a more applicable no-bid series threshold.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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[12] and Rule 19b–4(f)(6)[13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2014–020 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–C2–2014–020. 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

the bid is more than $20. An ''acceptable tick distance'' shall be no less than two minimum increments.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2014–020 and should be submitted on or before November 26, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–26347 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73471; File No. SR–NASDAQ–2014–080]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of the Shares of the PowerShares DB Optimum Yield Diversified Commodity Strategy Portfolio, PowerShares Agriculture Commodity Strategy Portfolio, PowerShares Precious Metals Commodity Strategy Portfolio, PowerShares Energy Commodity Strategy Portfolio, PowerShares Base Metals Commodity Strategy Portfolio and PowerShares Bloomberg Commodity Strategy Portfolio, Each a Series of PowerShares Actively Managed Exchange-Traded Commodity Fund Trust

October 30, 2014.

I. Introduction

On August 29, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the shares (''Shares'') of the PowerShares DB Optimum Yield Diversified Commodity Strategy Portfolio, PowerShares Agriculture Commodity Strategy Portfolio, PowerShares Precious Metals Commodity Strategy Portfolio, PowerShares Energy Commodity Strategy Portfolio, PowerShares Base Metals Commodity Strategy Portfolio, and PowerShares Bloomberg Commodity Strategy Portfolio (individually, ''Fund,'' and collectively, ''Funds''), each a series of PowerShares Actively Managed Exchange-Traded Commodity Fund Trust (''Trust''). On September 8, 2014, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on September 17, 2014.[4] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Description of Proposed Rule Change

The Exchange proposes to list and trade the Shares of each Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. Each Fund will be an actively managed exchange-traded fund (''ETF''). Each Fund's Shares will be offered by the Trust, which was established as a Delaware statutory trust on December 23, 2013.[5] Each Fund is a series of the Trust. Invesco PowerShares Capital Management LLC will be the investment adviser (''Adviser'') to the Funds.[6] Invesco Distributors, Inc. (''Distributor'') will be the principal underwriter and distributor of each Fund's Shares. The Bank of New York Mellon will act as the administrator, accounting agent, custodian, and transfer agent to the Funds.

The Exchange has made the following representations and statements in describing the Funds and their principal investments (including those of the Subsidiaries, as defined herein), other investments, and investment restrictions.[7]

Principal Investment Strategies Applicable to Each Fund

Each Fund's investment objective will be to seek long term capital appreciation. Each Fund will be an actively managed ETF that will seek to achieve its investment objective by investing, under normal circumstances,[8] in a combination of securities and futures contracts, either directly or through each Fund's own wholly-owned subsidiary controlled by such Fund and organized under the laws of the Cayman Islands (individually, ''Subsidiary,'' and collectively, ''Subsidiaries'').[9] Each Fund will invest in: (i) Its respective Subsidiary; (ii) exchange-traded

[3] In Amendment No. 1, the Exchange changed the name of the ''PowerShares Diversified Commodity Strategy Portfolio'' to ''PowerShares DB Optimum Yield Diversified Commodity Strategy Portfolio,'' and changed the name of the ''PowerShares Balanced Commodity Strategy Portfolio'' to ''PowerShares Bloomberg Commodity Strategy Portfolio.''

[4] *See* Securities Exchange Act Release No. 73078 (Sept. 11, 2014), 79 FR 55851 (''Notice'').

[5] According to the Exchange, the Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission. *See* Registration Statement on Form N–1A for the Trust, dated May 20, 2014 (File Nos. 333–193135 and 811–22927). The Exchange states that the Commission has issued an order granting certain exemptive relief to affiliates of the Trust, and which extends to the Trust, under the Investment Company Act of 1940 (''1940 Act''). *See* Investment Company Act Release No. 30029 (Apr. 10, 2012) (File No. 812–13795).

[6] The Exchange states that, although the Adviser is not a broker-dealer, the Adviser is affiliated with the Distributor, which is a broker-dealer. The Exchange represents that the Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a Fund's portfolio (including the portfolio of a Subsidiary, as defined herein). Nasdaq Rule 5735(g) requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the open-end fund's portfolio (including the portfolio of a Subsidiary, as defined herein). In addition, the Exchange represents that in the event (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the Adviser will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and changes to the portfolio, and the Adviser will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Exchange also states that the Funds do not currently intend to use a sub-adviser.

[7] The Commission notes that additional information regarding the Trust, the Funds, and the Shares, including investment strategies, risks, creation and redemption procedures, calculation of net asset value (''NAV''), fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, can be found in the Notice and Registration Statement, as applicable. *See supra* notes 4 and 5, respectively.

[8] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity, commodities and futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[9] According to the Exchange, all of the exchange-traded securities held by a Fund will be traded in a principal trading market that is a member of the Intermarket Surveillance Group (''ISG'') or a market with which the Exchange has a comprehensive surveillance sharing agreement. The Exchange states that with respect to futures contracts held indirectly through a Subsidiary, not more than 10% of the weight of such futures contracts in the aggregate shall consist of instruments whose principal trading market is not a member of the ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

products or exchange-traded commodity pools;[10] and (iii) U.S. Treasury Securities,[11] money market mutual funds, high quality commercial paper, and similar instruments, as described more fully below. Each respective Subsidiary will invest in exchange-traded commodity futures contracts (''Commodities''). The Commodities generally will be components of certain benchmark indices, as set forth below for each Fund, but each Subsidiary also may invest in Commodities that are outside of those benchmark indices.[12]

Each Fund's investments will include investments directly in other ETFs,[13] to the extent permitted under the 1940 Act,[14] or ETNs that provide exposure to the relevant Commodities. Each Fund also may invest in a Commodity Pool that is designed to track the performance of the applicable Benchmark through investments in Commodities.

The Exchange notes that no Fund will invest directly in Commodities. However, each Fund expects to gain significant exposure to Commodities indirectly by investing directly in the applicable Subsidiary. Each Fund's investment in its applicable Subsidiary may not exceed 25% of such Fund's total assets at each quarter end of such Fund's fiscal year. In addition, the Exchange states that no Fund or Subsidiary will invest directly in physical commodities. The remainder of a Fund's assets that are not invested in ETFs, ETNs, Commodity Pools, or its Subsidiary will be invested in U.S. government securities,[15] money market instruments,[16] cash and cash equivalents (*e.g.,* corporate commercial paper).[17] Each Fund will use these assets to provide liquidity and to collateralize the Subsidiary's investments in the applicable Commodities.

Principal Investments for Each Fund

PowerShares DB Optimum Yield Diversified Commodity Strategy Portfolio

According to the Exchange, this Fund will seek to achieve its investment objective through indirect investments that provide exposure to a diverse group of the most heavily traded physical commodities in the world. The Fund's indirect investments in commodities primarily will include futures contracts contained in DBIQ Optimum Yield Diversified Commodity Index Excess Return (which the Exchange states is the Fund's Benchmark), an index composed of futures contracts on 14 heavily traded commodities in the energy, precious metals, industrial metals, and agriculture sectors.

PowerShares Agriculture Strategy Portfolio

The Exchange states that this Fund will seek to achieve its investment objective through indirect investments that provide exposure to physical commodities within the agriculture sector. The Fund's indirect investments in commodities primarily will include futures contracts contained in DBIQ Diversified Agriculture Index Excess Return (which the Exchange states is the Fund's Benchmark), an index composed of futures contracts on 11 of the most liquid and widely traded agricultural commodities, including corn, soybeans, wheat, Kansas City wheat, sugar, cocoa, coffee, cotton, live cattle, feeder cattle, and lean hogs.

PowerShares Precious Metals Strategy Portfolio

According to the Exchange, this Fund will seek to achieve its investment objective through indirect investments that provide exposure to two of the most important precious metals—gold and silver. The Fund's indirect investments in commodities primarily will include futures contracts contained in DBIQ Optimum Yield Precious Metals Index Excess Return (which the Exchange states is the Fund's Benchmark), an index composed of futures contracts on gold and silver.

PowerShares Energy Strategy Portfolio

The Exchanges states that this Fund will seek to achieve its investment objective through indirect investments that provide exposure to physical commodities within the energy sector. The Fund's indirect investments in commodities primarily will include futures contracts contained in DBIQ Optimum Yield Energy Index Excess Return (which the Exchange states is the Fund's Benchmark), an index composed of futures contracts on heavily traded energy commodities, including light sweet crude oil (WTI), heating oil, Brent crude oil, RBOB gasoline, and natural gas.

PowerShares Base Metals Strategy Portfolio

The Exchange states that this Fund will seek to achieve its investment objective through indirect investments that provide exposure to the most widely used physical commodities within the base metals sector. The Fund's indirect investments in

[10] Specifically, the Funds will invest in: (1) ETFs that provide exposure to commodities as would be listed under Nasdaq Rules 5705 and 5735; (2) exchange-traded notes (''ETNs'') that provide exposure to commodities as would be listed under Nasdaq Rule 5710; or (3) exchange-traded pooled investment vehicles that invest primarily in commodities and commodity-linked instruments as would be listed under Nasdaq Rules 5711(b), (d), (f), (g), (h), (i), and (j) (''Commodity Pool'' or ''Commodity Pools'').

[11] U.S. Treasury obligations are backed by the ''full faith and credit'' of the U.S. government.

[12] In addition, each Subsidiary may, for administrative convenience, also invest in U.S. Treasury Securities, money market mutual funds, high quality commercial paper, and similar instruments, as discussed more fully below, for purposes of collateralizing investments in Commodities. Although each Fund's Subsidiary generally will hold many of the Commodities that are components of that Fund's respective benchmark index (''Benchmark''), each Subsidiary (and its respective parent Fund) will be actively managed by the Adviser and will not be obligated to invest in all of (or limit its investments solely to) the component Commodities within its respective Benchmark. Each Subsidiary (and its respective parent Fund) also will not be obligated to invest in the same amount or proportion as its respective Benchmark, or be obligated to track the performance of a Benchmark or of any index. Rather, the Adviser will determine the weightings of these investments by using a rules-based approach that is designed to ensure that the relative weight of each investment within a Fund's Subsidiary reflects the Adviser's view of the economic significance and market liquidity of the corresponding, underlying physical commodities.

[13] An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country and region indexes. ETFs included in a Fund will be listed and traded in the U.S. on registered exchanges. Each Fund may invest in the securities of other ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive relief obtained by an affiliate of the Trust that also applies to the Trust. The ETFs in which a Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depositary Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735).

[14] The shares of ETFs in which a Fund may invest will be limited to securities that trade in markets that are members of the ISG, which includes all U.S. national securities exchanges, or are parties to a comprehensive surveillance sharing agreement with the Exchange.

[15] Such securities will include securities that are issued or guaranteed by the U.S. Treasury, by various agencies of the U.S. government, or by various instrumentalities, which have been established or sponsored by the U.S. government. U.S. Treasury obligations are backed by the ''full faith and credit'' of the U.S. government. Securities issued or guaranteed by federal agencies and U.S. government-sponsored instrumentalities may or may not be backed by the full faith and credit of the U.S. government.

[16] For a Fund's purposes, money market instruments will include: Short-term, high quality securities issued or guaranteed by non-U.S. governments, agencies, and instrumentalities; non-convertible corporate debt securities with remaining maturities of not more than 397 days that satisfy ratings requirements under Rule 2a–7 of the 1940 Act; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions.

[17] The remainder of a Subsidiary's assets, if any, may be invested (like its respective Fund's assets) in these assets to serve as margin or collateral or otherwise support the Subsidiary's positions in Commodities.

commodities primarily will include futures contracts contained in DBIQ Optimum Yield Industrial Metals Index Excess Return (which the Exchange states is the Fund's Benchmark), an index composed of futures contracts on physical commodities in the base metals sector, including aluminum, zinc, and Grade A copper.

PowerShares Bloomberg Commodity Strategy Portfolio

According to the Exchange, this Fund will seek to achieve its investment objective through indirect investments that provide exposure to a broadly diversified representation of the commodity markets. The Fund's indirect investments in commodities primarily will include futures contracts contained in the Bloomberg Commodity Total Return Index (which the Exchange states is the Fund's Benchmark), a diversified index composed of futures contracts on various physical commodities across seven industry sectors. Historically, the Benchmark has included futures contracts on the following: aluminum, Brent Crude oil, coffee, copper, corn, cotton, gold, heating oil, Kansas wheat, lean hogs, live cattle, natural gas, nickel, silver, soybeans, soybean meal, soybean oil, sugar, unleaded gasoline, wheat, West Texas Intermediate crude oil, and zinc.

Investments of the Subsidiaries

According to the Exchange, each Subsidiary will be wholly-owned and controlled by the applicable Fund, and its investments will be consolidated into such Fund's financial statements. A Fund's investment in its Subsidiary will be designed to help such Fund achieve exposure to Commodities returns in a manner consistent with the federal tax requirements applicable to regulated investment companies, such as the Funds, which limit the ability of investment companies to invest directly in the derivative instruments.

Each Subsidiary will invest in Commodities. The remainder of a Subsidiary's assets, if any, may be invested (like its respective Fund's assets) in U.S. government securities, money market instruments, cash, and cash equivalents intended to serve as margin or collateral or otherwise support the Subsidiary's positions in Commodities. The Exchange states that each respective Subsidiary will therefore be subject to the same general investment policies and restrictions as the applicable Fund, except that unlike such Fund, which must invest in assets in compliance with the requirements of Subchapter M of the Internal Revenue Code, a Subsidiary may invest without limitation in Commodities. References to the investment strategies and risks of each Fund include the investment strategies and risks of the applicable Subsidiary. Each Subsidiary will be advised by the Adviser.[18]

As a result of the instruments that each Fund will hold indirectly, the Funds and the Subsidiaries are subject to regulation by the Commodity Futures Trading Commission and the National Futures Association (''NFA''), as well as additional disclosure, reporting, and recordkeeping rules imposed upon commodity pools.[19]

Other Investments

Each Fund may invest (either directly or through its Subsidiary) in U.S. government securities, money market instruments, cash and cash equivalents (*e.g.,* corporate commercial paper) to provide liquidity and to collateralize the Subsidiary's investments in Commodities. The instruments in which each Fund, or its respective Subsidiary, can invest include any one or more of the following: (i) Short-term obligations issued by the U.S. government;[20] (ii) short term negotiable obligations of commercial banks, fixed time deposits and bankers' acceptances of U.S. banks and similar institutions;[21] (iii) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc. or ''A–1+'' or ''A–1'' by Standard & Poor's or, if unrated, of comparable quality, as the Adviser to the Funds determines; and (iv) money market mutual funds, including affiliated money market mutual funds.

In addition, according to the Exchange, each Fund's investment in securities of other investment companies (including money market funds) may exceed the limits permitted under the 1940 Act, in accordance with certain terms and conditions set forth in a Commission exemptive order issued to an affiliate of the Trust (which applies equally to the Trust) pursuant to Section 12(d)(1)(J) of the 1940 Act. The Exchange states that no Fund, or its respective Subsidiary, anticipates investing in options, swaps, or forwards.

Investment Restrictions

Each Fund may not concentrate its investments (*i.e.,* invest more than 25% of the value of its net assets) in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities.

Each Subsidiary's shares will be offered only to the applicable Fund and such Fund will not sell shares of that Subsidiary to other investors. Each Fund and the applicable Subsidiary will not invest in any non-U.S. equity securities (other than shares of the Subsidiary).

Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities and other illiquid assets (calculated at the time of investment). Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of a Fund's net assets are held in illiquid securities or other illiquid assets.[22]

Each Fund intends to qualify for and to elect to be treated as a separate regulated investment company under Subchapter M of the Internal Revenue Code.

Each Fund's and its respective Subsidiary's investments will be consistent with that Fund's investment

[18] The Exchange states that the Subsidiaries will not be registered under the 1940 Act, and that, as an investor in a Subsidiary, a Fund, as that Subsidiary's sole shareholder, will not have the protections offered to investors in registered investment companies. However, because each Fund will wholly own and control its respective Subsidiary, and each Fund and its respective Subsidiary will be managed by the Adviser, no Subsidiary will take action contrary to the interests of its Fund or its Fund's shareholders. The Trust's Board (''Board'') will have oversight responsibility for the investment activities of each Fund, including its expected investments in its Subsidiary, and that Fund's role as the sole shareholder of such Subsidiary. The Adviser will receive no additional compensation for managing the assets of each Subsidiary. Also, in managing a Subsidiary's portfolio, the Adviser will be subject to the same investment restrictions and operational guidelines that apply to the management of a Fund. Each Subsidiary also will enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the applicable Fund.

[19] The Exchange represents that the Adviser has previously registered as a commodity pool operator and is also a member of the NFA.

[20] Each Fund may invest in U.S. government obligations. Obligations issued or guaranteed by the U.S. government, its agencies and instrumentalities include bills, notes and bonds issued by the U.S. Treasury, as well as ''stripped'' or ''zero coupon'' U.S. Treasury obligations representing future interest or principal payments on U.S. Treasury notes or bonds. *See supra* note 11.

[21] Time deposits are non-negotiable deposits maintained in banking institutions for specified periods of time at stated interest rates. Banker's acceptances are time drafts drawn on commercial banks by borrowers, usually in connection with international transactions.

[22] Illiquid securities and other illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

objective. In pursuing its investment objective, a Fund may utilize instruments that have a leveraging effect on that Fund. This effective leverage occurs when a Fund's market exposure exceeds the amounts actually invested. The Exchange represents that any instance of effective leverage will be covered in accordance with guidance promulgated by the Commission and its staff. According to the Exchange, each Fund does not presently intend to engage in any form of borrowing for investment purposes, and will not be operated as ''leveraged ETFs,'' *i.e.,* it will not be operated in a manner designed to seek a multiple of the performance of an underlying reference index.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[23] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[24] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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 Commission notes that the Funds and the Shares must comply with the requirements of Nasdaq Rule 5735 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[25] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. In addition, for each Fund, an estimated value, defined in Nasdaq Rule 5735(c)(3) as the ''Intraday Indicative Value,'' [26] will be available on the NASDAQ OMX Information LLC proprietary index data service,[27] and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.[28] On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, each Fund will disclose on its Web site the Disclosed Portfolio, as defined in Nasdaq Rule 5735(c)(2), that will form the basis for each Fund's calculation of NAV at the end of the business day.[29]

The Funds' administrator will calculate each Fund's NAV as of the close of trading (normally 4:00 p.m., Eastern Time) on each day Nasdaq is open for business.[30] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last-sale information for any underlying exchange-traded instruments (including ETFs, ETNs, and Commodity Pools) will also be available via the quote and trade service of their respective primary exchanges, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans. Quotation and last-sale information for any underlying Commodities will be available via the quote and trade service of their respective primary exchanges. Pricing information related to U.S. government securities, money market mutual funds, commercial paper, and other short-term investments held by a Fund or its Subsidiary will be available through publicly available quotation services, such as Bloomberg, Markit, and Thomson Reuters. The Funds' Web site (*www.invescopowershares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for each Fund and additional data relating to NAV and other applicable quantitative information.[31]

The Commission further believes that the proposal to list and trade the Shares

[23] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[26] According to the Exchange, the Intraday Indicative Value for each Fund will reflect an estimated intraday value of such Fund's portfolio (including the Subsidiary's portfolio) and will be based upon the current value for the components of a Disclosed Portfolio.

[27] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service. The Exchange represents that GIDS offers real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs, and that GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs

[28] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4:00 a.m. to 9:30 a.m., Eastern Time; (2) Regular Market Session from 9:30 a.m. to 4:00 p.m. or 4:15 p.m., Eastern Time; and (3) Post-Market Session from 4:00 p.m. or 4:15 p.m. to 8:00 p.m., Eastern Time).

[29] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting and market value of securities and other assets held by a Fund and the Subsidiary and the characteristics of such assets. The Web site and information will be publicly available at no charge.

[30] NAV per Share will be calculated for a Fund by taking the market price of such Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, dividing such amount by the total number of Shares outstanding, rounded to the nearest cent (although creations and redemptions will be processed using a price denominated to the fifth decimal point, meaning that rounding to the nearest cent may result in different prices in certain circumstances). All valuations will be subject to review by the Board or its delegate. Expenses will be accrued and applied daily and securities and other assets for which market quotations are readily available will be valued at market value. Securities listed or traded on an exchange generally will be valued at the last sales price or official closing price that day as of the close of the exchange where the security primarily is traded. Commodities will be valued at the closing price in the market where such contracts are principally traded. Investment company shares will be valued at net asset value, unless the shares are exchange-traded, in which case they will be valued at the last sale or official closing price on the market on which they primarily trade. ETNs will be valued at the last sale or official closing price on the market on which they primarily trade. Commodity Pools will be valued at the last sale or official closing price on the market on which they primarily trade. U.S. government securities will be valued at the mean price provided by a third party vendor for U.S. government securities. Short term money market instruments, cash and cash equivalents (including corporate commercial paper, negotiable obligations of commercial banks, fixed time deposits, bankers acceptances and similar securities) will be valued in accordance with the Trust's valuation policies and procedures approved by the Board. A Fund's investment in its Subsidiary will be valued by aggregating the value of the Subsidiary's underlying holdings, and they, in turn, will be valued as discussed above.

[31] The Funds' Web site will include the Share's ticker, CUSIP and exchange information along with additional quantitative information updated on a daily basis, including, for each Fund: (1) Daily trading volume, the prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price'') and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pause provisions under Nasdaq Rules 4120(a)(11) and (12). Trading in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in a Fund's Shares inadvisable,[32] and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth additional circumstances under which trading in Shares of a Fund may be halted. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Further, the Commission notes that the Reporting Authority, as defined in Nasdaq Rule 5735(c)(4), that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[33] In addition, the Exchange states that, while the Adviser is not registered as a broker-dealer, the Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to that broker-dealer regarding access to information concerning the composition of, or changes to, the portfolio, and that personnel who make decisions on each Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding each Fund's portfolio.[34]

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[35] In addition, the Exchange may obtain information from the Trade Reporting and Compliance Engine (''TRACE''), which is the FINRA-developed vehicle that facilitates mandatory reporting of over-the-counter secondary market transactions in eligible fixed income securities. Prior to the commencement of trading, the Exchange states that it will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made the following representations:

(1) The Shares will conform to the initial and continued listing criteria applicable to Managed Fund Shares, as set forth under Rule 5735.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, Commodities, ETFs, ETNs, and Commodity Pools held by a Fund or a Fund's Subsidiary, as applicable, with other markets and other entities that are members of the ISG,[36] and FINRA may obtain trading information regarding trading in the Shares, Commodities, ETFs, ETNs, and Commodity Pool held by such Fund, or its Subsidiary, as applicable, from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, Commodities, ETFs, ETNs, and Commodity Pools held by a Fund or its respective Subsidiary from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is also able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA's TRACE.

(4) All of the exchange-traded securities held by a Fund will be traded in a principal trading market that is a member of ISG or a market with which the Exchange has a comprehensive surveillance sharing agreement. With respect to Commodities held indirectly through a Subsidiary, not more than 10% of the weight of such Commodities, in the aggregate, shall consist of instruments whose principal trading market is not a member of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

(5) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how and by whom information regarding the Intraday Indicative Value and Disclosed Portfolio is disseminated, including

[32] These reasons may include: (1) The extent to which trading is not occurring in the securities and other assets constituting the Disclosed Portfolio of a Fund and the applicable Subsidiary; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.

[33] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[34] *See supra* note 6. The Exchange states that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients, as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[35] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[36] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

how it is made available and by whom; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(6) For initial and continued listing, each Fund and its respective Subsidiary must be in compliance with Rule 10A–3 under the Act.[37]

(7) Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of a Fund's net assets are held in illiquid assets.

(8) No Fund will invest directly in Commodities. However, each Fund expects to gain significant exposure to Commodities indirectly by investing directly in the applicable Subsidiary. Each Fund's investment in its applicable Subsidiary may not exceed 25% of such Fund's total assets at each quarter end of such Fund's fiscal year. Each Fund and the applicable Subsidiary will not invest in any non-U.S. equity securities (other than shares of the Subsidiary).

(9) No Fund or Subsidiary will invest directly in physical commodities.

(10) Each Fund's Subsidiary will invest in Commodities. The Commodities generally will be components of the Benchmark for each Fund, but each Subsidiary also may invest in Commodities that are outside of the Benchmark.

(11) Each Fund's and its respective Subsidiary's investments will be consistent with that Fund's investment objectives. In pursuing its investment objective, a Fund may utilize instruments that have a leveraging effect on that Fund. Any instance of effective leverage will be covered in accordance with guidance promulgated by the Commission and its staff. Each Fund does not presently intend to engage in any form of borrowing for investment purposes, and will not be operated as ''leveraged ETFs, *i.e.,* it will not be operated in a manner designed to seek a multiple of the performance of an underlying reference index.

(12) A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Funds.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[38] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[39] that the proposed rule change (SR–NASDAQ–2014–080), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Brent J. Fields,

Secretary.

[FR Doc. 2014–26229 Filed 11–4–14; 8:45 am]

BILLING CODE 8011–01–P

[37] *See* 17 CFR 240.10A–3.

[38] 15 U.S.C. 78f(b)(5).

[39] 15 U.S.C. 78s(b)(2).

[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of VHGI Holdings, Inc.; Order of Suspension of Trading

November 3, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of VHGI Holdings, Inc. (''VHGI'') because it has not filed a periodic report since it filed its Form 10–K for the period ending December 31, 2012, filed on June 26, 2013. VHGI's common stock (ticker ''VHGI'') was quoted on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group, Inc.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of VHGI. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of VHGI is suspended for the period from 9:30 a.m. EDT on November 3, 2014, through 11:59 p.m. EDT on November 14, 2014.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2014–26360 Filed 11–3–14; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 8937]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Winchester Bible: A Masterpiece of Medieval Art''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''The Winchester Bible: A Masterpiece of Medieval Art,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about December 9, 2014, until on or about March 8, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: October 24, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–26280 Filed 11–4–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8938]

Culturally Significant Objects Imported for Exhibition Determinations: ''Display of Sixteen Hellenistic Silver Objects From the Republic of Italy, Sicily Region'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Display of Sixteen Hellenistic Silver Objects from the Republic of Italy, Sicily Region,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about December 1, 2014, until on or about December 1, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: October 29, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–26281 Filed 11–4–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventh Meeting: RTCA Tactical Operations Committee (TOC)

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

ACTION: Seventh meeting notice of RTCA Tactical Operations Committee.

SUMMARY: The FAA is issuing this notice to advise the public of the seventh meeting of the RTCA Tactical Operations Committee.

DATES: The meeting will be held November 20th from 9:00 a.m.–1:00 p.m.

ADDRESSES: This meeting is being held virtually. Any members of the public interested in participating virtually are required to pre-register no later than November 14, 2014 by contacting Trin Mitra via the email *tmitra@rtca.org.* Please provide the following information:

- Name
- Organization
- Phone number and Email address

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Trin Mitra, TOC Secretary, *tmitra@rtca.org,* 202–330–0655.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the RTCA Tactical Operations Committee. The agenda will include the following:

November 20th

- Opening of Meeting/Introduction of TOC Members—Co Chairs Jim Bowman and Dale Wright
- Official Statement of Designated Federal Official—Elizabeth Ray
- Approval of September 3, 2014 Meeting Summary
- Kickoff New TOC Tasks
- Status of Existing and Potential TOC Tasks
- Update briefing on TBFM
- Update briefing on NSAAP
- Discussion on UAS/Commercial Space
- Overview of RTCA/IATA Partnership
- Anticipated Issues for TOC consideration and action at the next meeting
- Other business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 29th 2014.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2014–26303 Filed 11–4–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0322]

Hours of Service of Drivers: Application of B.R. Kreider & Son, Inc. for Exemption From the 12-Hour Limit on the Duty Day of Short-Haul Drivers

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from B.R. Kreider & Son, Inc., (Kreider) for an exemption from the requirement that drivers of commercial motor vehicles (CMVs) must be released from work within 12 consecutive hours in order to take advantage of the exception to the record of duty status (RODS) rule for short-haul operations. Drivers qualifying for the short-haul exception are subject to the hours of service limits but are not required to maintain a RODS during the duty day. Kreider asks that its drivers be allowed to operate under the short-haul exception when their duty day exceeds 12 hours, and states that the same level of safety would be achieved with the exemption in place as would be achieved without the exemption.

DATES: Comments must be received on or before December 5, 2014

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2014–0322 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions for submitting comments.

- *Fax:* 1–202–493–2251.
- *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., 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 *www.regulations.gov,* including any personal information provided. Please also see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments received, go to *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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

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. Robert F. Schultz, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. Before doing so, the Agency must provide an opportunity for public comment. The Agency is required to publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)), providing the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted, and an opportunity to comment on the request. FMCSA must review the safety analyses and public comments submitted and determine whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)) and state the reasons for denying or granting the application. If the exemption is granted, the notice must include the name of the person or entity, or class of persons, receiving the exemption, and the regulation from which the exemption is granted. The notice must also specify the effective period of the exemption and state the terms and conditions of the exemption, if any. The exemption may be renewed (49 CFR 381.300(b)).

The hours-of-service (HOS) rules (49 CFR part 395) require operators of CMVs to maintain a RODS on board the CMV at all times (§ 395.8(a)). However, the HOS rules provide an exception to this requirement for qualifying CMV drivers engaged in short-haul operations (§ 395.1(e)). Section 395.1(e) states in pertinent part: ''(e) Short-haul operations—(1) 100 air-mile radius driver. A driver is exempt from [maintaining a RODS] if: (i) The driver operates within a 100 air-mile radius of the normal work reporting location; (ii) The driver . . . returns to the work reporting location and is released from work within 12 consecutive hours; (iii)(A) A property-carrying commercial motor vehicle driver has at least 10 consecutive hours off duty separating each 12 hours on duty; . . . (iv)(A) A property-carrying commercial motor vehicle driver does not exceed [11 hours] driving . . . following 10 consecutive hours off duty; . . . and (v) The motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records showing: (A) The time the driver reports fur duty each day; (B) The total number of hours the driver is on duty each day; (C) The time the driver is released from duty each day . . .''

A driver who expects to qualify for the short-haul exception does not maintain a RODS on board the CMV. However, if the driver discovers later in the day that he or she is not going to qualify for the short-haul exception, the driver must immediately begin to prepare a RODS for the day. The RODS must cover the entire day, even if the driver has to record retroactively changes in duty status that occurred earlier in the day. See Q.21 under 49 CFR 395.1 at *http://www.fmcsa.dot.gov/regulations/title49/part395?guidance.*

Request for Exemption

Kreider is an interstate motor carrier engaged in the short-haul transportation of materials such as topsoil, fill, and stone. Kreider drivers do not go beyond a 100 air-mile radius of their normal work-reporting location during their duty day. Kreider states that its drivers make frequent deliveries during their duty day, and thus are ''in and out of the truck all day long.'' Kreider states that it is often not possible for its CMV drivers to complete their duty day within the 12-hour limit. The applicant believes that it is impractical to require these drivers to prepare a RODS when this occurs. Kreider states that the 12-hour requirement ''affects the driver's pay, production rates and makes for a very sloppy log book with so many lines between driving and on duty.'' It believes that the same level of safety would be achieved with this exemption in place as would be achieved in the absence of the exemption. A copy of the applicants' application for exemption is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on this application for an exemption from § 395.1(e)(1)(ii) so that its CMV drivers who are not released from duty within 12 consecutive hours can qualify for the short-haul exception.

The Agency will consider all comments received by close of business on December 5, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: October 27, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–26271 Filed 11–4–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–3637; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2008–0292]

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 24 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 December 8, 2014. Comments must be received on or before December 5, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1998–3637; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2008–0292], 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 24 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 24 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Timothy S. Ballard (NC)
Donald O. Clopton (AL)
Stephen R. Daugherty (IN)
Ronald W. Garner (WA)
Paul A. Gregerson (IA)
Herman Hicks (GA)
Nelson V. Jaramillo (MA)
Larry D. Johnson (IL)
James A. Jones (MD)
Leslie A. Landschoot (NY)
Bruce T. Loughary (AR)
Kenny Y. Louie (CA)
Wayne R. Mantela (KY)
Kenneth D. May (AL)
Carl M. McIntire (OH)
Duffy P. Metrejean, Jr. (LA)
Gordon L. Nathan (CA)
Bernice R. Parnell (NC)
Michael J. Paul (LA)
Melinda V. Salas (CA)
Patrick W. Shea (MA)
Roy F. Varnado, Jr. (LA)
Michael J. Welle (MN)
Rick A. Young (IN)

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 24 applicants has satisfied the entry conditions for obtaining an exemption from the vision

requirements (63 FR 30285; 63 FR 54519; 65 FR 20245; 65 FR 33406; 65 FR 45817; 65 FR 57230; 65 FR 77066; 65 FR 77069; 67 FR 57266; 67 FR 71610; 69 FR 52741; 69 FR 53493; 69 FR 62741; 69 FR 62742; 69 FR 64810; 71 FR 62147; 71 FR 62148; 71 FR 66217; 73 FR 35194; 73 FR 35199; 73 FR 48273; 73 FR 48275; 73 FR 51689; 73 FR 60398; 73 FR 61922; 73 FR 61925; 73 FR 63047; 73 FR 74565; 75 FR 44050; 75 FR 52062; 75 FR 59327; 75 FR 72868; 75 FR 77949; 77 FR 52389; 77 FR 68202). Each of these 24 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–1998–3637; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2008–0292), 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, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–1998–3637; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2008–0292'' 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–1998–3637; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2000–7363; FMCSA–2004–18885; FMCSA–2008–0106; FMCSA–2008–0266; FMCSA–2008–0292'' 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: October 27, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–26272 Filed 11–4–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7006; FMCSA–2006–24783; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2011–0124; FMCSA–2012–0161; FMCSA–2012–0279]

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 17 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 December 3, 2014. Comments must be received on or before December 5, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7006; FMCSA–2006–24783; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2011–0124; FMCSA–2012–0161; FMCSA–2012–0279], 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 17 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 17 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Jawad K. Al-Shaibani (TX)
Robert S. Bowen (TN)
Joseph E. Brunette (CA)
Deurice K. Dean (MD)
Craig E. Dorrance (MT)
Terry J. Edwards (MO)
Christopher K. Foot (NV)
Anthony A. Gibson, Jr. (IL)
Charles F. Huffman (WA)
Ivaylo V. Kanchev (FL)
John L. Lethcoe (NC)
Johnny Montemayor (TX)
Christopher S. Morgan (LA)
Neville E. Owens II (NC)
Jeffrey S. Pennell (VT)
Benito Saldana (TX)
Max A. Thurman (IL)

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 17 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 20245; 65 FR 57230; 67 FR 57266; 69 FR 52741; 71 FR 32183; 71 FR 41310; 71 FR 53489; 73 FR 36955; 73 FR 46973; 73 FR 51336; 73 FR 54888; 75 FR 36778; 75 FR 47883; 75 FR 52062; 75 FR 52063; 75 FR 63257; 76 FR 34136; 76 FR 55463; 77 FR 41879; 77 FR 48590; 77 FR 52388; 77 FR 52389; 77 FR 52391; 77 FR 60008; 77 FR 60010; 77 FR 71671). Each of these 17 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–2007–7006; FMCSA–2006–24783; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2011–0124; FMCSA–2012–0161; FMCSA–2012–0279), 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, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2007–7006; FMCSA–2006–24783; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2011–0124; FMCSA–2012–0161; FMCSA–2012–0279'' 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–2007–7006; FMCSA–2006–

24783; FMCSA–2008–0231; FMCSA–2010–0187; FMCSA–2011–0124; FMCSA–2012–0161; FMCSA–2012–0279'' 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., ET., Monday through Friday, except Federal holidays.

Issued on: October 27, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–26273 Filed 11–4–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Selection of Public Transportation Resilience Projects in Response to Hurricane Sandy

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Announcement of project selections for resilience projects in response to Hurricane Sandy.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of public transportation resilience projects in response to Hurricane Sandy under the Emergency Relief Program. These projects are funded under the Disaster Relief Appropriations Act of 2013, which made approximately $10.9 billion available for public transportation systems impacted by Hurricane Sandy in October 2012. This amount was subsequently reduced to $10.2 billion by sequestration and intergovernmental transfers of funds to other bureaus and offices within DOT. On December 26, 2013, FTA published a **Federal Register** Notice (78 FR 78486) announcing the availability of approximately $3 billion for projects that will reduce the risk of damage from future disasters in the areas impacted by Hurricane Sandy. FTA has allocated the maximum amount available for resilience projects: $3.592 billion. Resilience projects awarded in this notice are subject to the recently issued Final Rule for the Emergency Relief Program, which was published in the **Federal Register** on October 7, 2014 (79 FR 60349). FTA has published additional guidance on policies and procedures for competitive resilience funding in the form of frequently asked questions (FAQs) at *www.fta.dot.gov/emergencyrelief.* Recipients are responsible for monitoring this Web site for additional guidance.

FOR FURTHER INFORMATION CONTACT: Contact the appropriate FTA Regional Office found at *http://www.fta.dot.gov.* For program-specific questions, or additional information about project selections, please contact Adam Schildge, Office of Program Management, 1200 New Jersey Ave. SE., Washington, DC 20590, phone: (202) 366–0778, or email, *adam.schildge@dot.gov.* For legal questions, please contact Bonnie Graves, Office of Chief Counsel, same address, phone: (202) 366–4011, or email, *Bonnie.Graves@dot.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Overview of Resilience Project Selections
B. Award Administration
C. Pre-Award Authority
D. Grant Requirements
E. Reporting Requirements

A. Overview of Resilience Project Selections

As a result of Hurricane Sandy, and in accordance with the Stafford Act, President Obama declared a major disaster in late 2012 for 12 States and the District of Columbia affected by Hurricane Sandy, making public transportation agencies in specified counties in those States eligible for financial assistance under FTA's Public Transportation Emergency Relief Program.

The Disaster Relief Appropriations Act (Pub. L. 113–2) provides $10.9 billion for FTA's Emergency Relief Program for recovery, relief and resilience efforts in areas affected by Hurricane Sandy, with approximately $10.2 billion still available after implementation of the Balanced Budget and Emergency Deficit Control Act of 2011 (Pub. L. 112–25) and after intergovernmental transfers to other bureaus and offices within DOT. FTA has allocated approximately $9.27 billion in multiple tiers for response, recovery and rebuilding, for locally-prioritized resilience projects, and, now for competitively selected resilience projects. In addition, FTA has reserved approximately $817 million for remaining unfunded recovery expenses.

On March 29, 2013 FTA announced the allocation of $2 billion for response and recovery expenses. On May 29, 2013, FTA announced the allocation of an additional $2.4 billion for response and recovery, including long term rebuilding, and $1.3 billion for locally prioritized resilience improvements.

On December 26, 2013, FTA published a Notice of Funding Availability (NOFA) for approximately $3 billion for capital projects to reduce the risk of damage to public transportation systems from future disasters in the areas impacted by Hurricane Sandy. FTA received 61 eligible project proposals from 10 applicants requesting a total of over $6.6 billion. The proposed projects were evaluated based on the criteria and policy priorities described in the NOFA. This notice allocates $3,591,883,625 to 9 applicants for 40 of the 61 proposed resilience projects.

The following chart illustrates the overall allocation of funding under the FTA Emergency Relief Program and the Disaster Relief Appropriations Act:

Award type	Applicants	Available funding	Eligibility criteria
Response, Recovery & Rebuilding.	Affected FTA Recipients	$4.4 billion	Damage assessments submitted by affected agencies and reviewed by FTA, and costs incurred by affected agencies.
Locally-Prioritized Resilience.	MTA, NJT, PANYNJ, NYCDOT	$1.3 billion	Resilience Projects and Project Components.
Competitive Resilience	(1) States, (2) public transportation agencies that receive funding through FTA formula programs, (3) other entities responsible for an eligible public transportation capital project that enter into a subrecipient arrangement with an existing FTA grantee, and (4) entities that provide intercity passenger rail service.	$3.6 billion	Resilience Projects Announced in this Notice.

Award type	Applicants	Available funding	Eligibility criteria
Response, Recovery & Rebuilding.	Affected FTA Recipients	$817 million (to be announced in a subsequent notice).	Damage assessments submitted by affected agencies and reviewed by FTA, and costs incurred by affected agencies.
Direct Transfer Resilience [1].	Eligible DOT grantees/funding recipients implementing programs authorized under titles 23 and 49 U.S.C.	$185 million	Funds allocated for projects intended to be undertaken by entities that are not current FTA recipients may be transferred to other DOT entities for administration. Additional transfers may be requested for resilience projects included in this notice.

[1] The Secretary is authorized by the Disaster Relief Appropriations Act to transfer emergency relief resilience funding to other DOT operating administrations for eligible projects.

Selected resilience projects are shown in Table 1. Allocations may be less than requested if either a scalable scope and amount was provided by the applicant, or if FTA has identified a reduced scope and amount for award. The awarded amounts represent a 75 percent Federal share of the total project cost. Applicants are required to provide a 25 percent matching cost share. The local share may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. In addition to local and State funds, non-Federal match may include the use of Community Development Block Grant (CDBG) funds, including CDBG Disaster Recovery (CDBG–DR) funds that are available for transportation purposes.

B. Award Administration

Recipients are required to submit a grant application electronically via FTA's Transportation Electronic Award Management system (TEAM), and should work with their FTA Regional Office to develop and submit their application in TEAM so that funds can be obligated expeditiously. Grant applications in TEAM may only include eligible activities under the Emergency Relief program. Upon award, payments to recipients will be made by electronic transfer to the recipient's financial institution through FTA's Electronic Clearing House Operation (ECHO) system. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in FTA's electronic grants management system. Successful intercity rail projects may be transferred to the FRA for administration and oversight at the project sponsor's request.

Although Section 904(c) of the Disaster Relief Appropriations Act requires that funds received under the Disaster Relief Appropriations Act be expended within two years of obligation, OMB issued a waiver of this requirement for grants awarded under FTA's Emergency Relief Program. In issuing this waiver, OMB stated an expectation that Federal agencies and grantees will work together to ensure that funds obligated under the Disaster Relief Appropriations Act are expended in a timely manner. Recipients are advised to work with their FTA regional office to develop a timeline for project development and award. While there is not a defined timeframe in which these funds must be obligated and expended, all projects should be undertaken and completed in accordance with the project application and grant agreement and all identified milestones. FTA will use the projected milestones at the time of grant award to estimate future program expenditures and to provide information on Hurricane Sandy resilience progress to Congress.

There are some cases where the allocated amount is less than the full amount of funding requested. In these cases, the amount allocated will fund either a reduced scope alternative provided by the applicant or identified by FTA. Funds awarded to a resilience project may only be used for the project scope associated with the amount awarded. A recipient may utilize other sources of funding such as local priority resilience funding or FTA formula program funds for the non-funded elements of the proposed project. Recipients that were awarded less than their request should work with their FTA regional office to ensure the funds are obligated for the project scope associated with the amount awarded.

C. Pre-Award Authority

Pre-award authority allows affected FTA recipients to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. Previously, FTA extended pre-award authority for costs associated with the environmental review, as well as design and engineering expenses for selected projects. These costs remain eligible for reimbursement or may count towards the local match, regardless of the date incurred. Pre-award authority for other project costs is extended as of September 22, 2014, if the project costs meet the criteria described below. If a recipient is unsure whether a cost incurred prior to September 22 is eligible for pre-award authority or to be counted as local match, the recipient should contact their FTA regional office.

Consistent with FTA policy on pre-award authority, a project must have met all applicable Federal requirements prior to incurring expenses. The recipient assumes all risk and is responsible for ensuring that all applicable Federal program and grant requirements are met to retain eligibility. Recipients are also advised that incurring certain project costs prior to NEPA completion may render the entire project ineligible for Federal assistance. Therefore, FTA strongly encourages all recipients to consult with the appropriate FTA regional office regarding the anticipated environmental review requirements and the applicability of Federal conditions and requirements before incurring expenses under pre-award authority with the hope of future reimbursement.

Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.

The conditions under which pre-award authority may be used are specified below:

(i) All FTA statutory, procedural, and contractual requirements must be met.

(ii) The recipient must take no action that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.

(iii) When a grant for the project is subsequently awarded, the Federal Financial Report in TEAM-Web must indicate the use of pre-award authority.

Expenses incurred for projects that were not selected may not be reimbursed with competitive resilience funding. If a grantee intends to carry out

a project that was not selected for competitive resilience funding using local priority resilience funding, the grantee should contact the regional office immediately to discuss whether any expenses already incurred for the project are eligible for reimbursement.

Expenses incurred for projects that were not selected may be eligible for reimbursement under FTA formula programs such as Section 5307, provided that they comply with the terms of pre-award authority and that all applicable Federal requirements were met prior to incurring costs.

D. Grant Requirements

Emergency Relief funds may only be used for eligible purposes as defined under 49 U.S.C. 5324 and as described in the Emergency Relief Program Rule (49 CFR part 602).

Recipients of section 5324 funds must comply with all applicable Federal requirements, including FTA's Master Agreement. Each grant for section 5324 funds will include special grant conditions, including but not limited to specific requirements of the Disaster Relief Appropriations Act of 2013, Federal share, and enhanced oversight.

All projects announced in this notice are subject to the labor protection provisions of Section 5333(b). Accordingly, all grants containing resilience projects will be sent to the Department of Labor for certification of transit employee protections prior to FTA approval.

Proposals that receive competitive funding allocations must provide evidence of continued progress toward key project milestones, which will be determined cooperatively by FTA and the awardee within 6 months of the announcement of allocations. Projects that cease to make progress towards these milestones within an agreed-upon timeframe may have their funding allocations deobligated or rescinded.

Recipients are advised that FTA is implementing an enhanced oversight process for Disaster Relief Appropriation Act funds awarded under the Emergency Relief Program. FTA intends to undertake a risk analysis of each recipient and grant to determine the appropriate level of oversight.

Selected resilience projects involving intercity rail may be transferred to the FRA for administration and oversight at the project sponsor's request. If transferred, such projects will be subject to FRA program requirements. Recipients are advised to contact FTA for additional information.

E. Reporting Requirements

Post-award reporting requirements include submission of the Federal Financial Report and Milestone Progress Reports in FTA's electronic grant management system consistent with FTA's grants management Circular 5010.1D and the special conditions of award for Hurricane Sandy Emergency Relief grants, as well as any other reporting requirements FTA determines are necessary.

Therese W. McMillan,

Acting Administrator.

TABLE 1—PUBLIC TRANSPORTATION RESILIENCE PROJECTS IN RESPONSE TO HURRICANE SANDY

Project sponsor	Project title	Funding ID	Amount
Connecticut Department of Transportation (CTDOT).	Replacement of Norwalk River Railroad Bridge on the Northeast Corridor (Walk Bridge Replacement Project).	D2013–RESL–001	$160,979,022
Connecticut Department of Transportation (CTDOT).	New Haven Rail Yard Power Upgrade	D2013–RESL–002	8,978,750
Massachusetts Bay Transportation Authority (MBTA).	MBTA Green Line Fenway Portal Flood proofing.	D2013–RESL–003	21,673,689
Massachusetts Bay Transportation Authority (MBTA).	MBTA Charlestown Seawall Replacement	D2013–RESL–004	13,391,443
City of Nashua, NH	Nashua Transit Facility Back-up Power Supply.	D2013–RESL–005	25,781
New Jersey Transit Corporation (NJ TRANSIT).	Delco Lead Safe Haven Storage and Re-Inspection Facility Project.	D2013–RESL–006	184,493,910
New Jersey Transit Corporation (NJ TRANSIT).	Hoboken Long Slip Flood Protection	D2013–RESL–007	146,548,432
New Jersey Transit Corporation (NJ TRANSIT).	NJ TRANSIT Raritan River Drawbridge Replacement Project.	D2013–RESL–008	446,312,465
New Jersey Transit Corporation (NJ TRANSIT).	NJ TransitGrid	D2013–RESL–009	409,764,814
New Jersey Transit Corporation (NJ TRANSIT).	Train Controls—Wayside Signals, Power & Communication Resiliency Project.	D2013–RESL–010	88,903,190
Port Authority of New York and New Jersey	Exchange Place, Newport Station & Grove Street Station Head House Protection.	D2013–RESL–011	37,084,650
Port Authority of New York and New Jersey	Harrison Car Maintenance Facility Automatic Flood Barrier.	D2013–RESL–012	14,861,400
Port Authority of New York and New Jersey	Extension of Rail Yards	D2013–RESL–013	18,900,000
Port Authority of New York and New Jersey	Concrete Sea Wall East of PATH Harrison Car Maintenance Facility.	D2013–RESL–014	16,815,975
Port Authority of New York and New Jersey	Penn-Moynihan Station Complex Train-shed Hardening Project.	D2013–RESL–030	40,200,000
Port Authority of New York and New Jersey	World Trade Center Site and Transit Facilities Flood Mitigation and Resiliency Improvements Program.	D2013–RESL–031	84,675,000
New York City Department of Transportation (NYCDOT).	New York City Comprehensive Ferry Transit Resilience Project.	D2013–RESL–015	191,550,000
New York Metropolitan Transportation Authority (MTA).	Emergency Communications Enhancements (NYCT).	D2013–RESL–016	74,950,000
New York Metropolitan Transportation Authority (MTA).	Flood Mitigation in Yards (NYCT)	D2013–RESL–017	617,200,000

TABLE 1—PUBLIC TRANSPORTATION RESILIENCE PROJECTS IN RESPONSE TO HURRICANE SANDY—Continued

Project sponsor	Project title	Funding ID	Amount
New York Metropolitan Transportation Authority (MTA).	Hardening of Substations in Flood Prone Areas and Purchase of Mobile Substations (NYCT).	D2013–RESL–018	112,050,000
New York Metropolitan Transportation Authority (MTA).	Protection of Tunnel Portals and Internal Tunnel Sealing (NYCT).	D2013–RESL–019	43,090,000
New York Metropolitan Transportation Authority (MTA).	Flood Resiliency for Long Island City Yard (LIRR).	D2013–RESL–020	19,150,000
New York Metropolitan Transportation Authority (MTA).	Flood Resiliency for Critical Support Facilities (NYCT).	D2013–RESL–021	24,320,000
New York Metropolitan Transportation Authority (MTA).	Protection of Street Level Openings in Flood Prone Areas (NYCT).	D2013–RESL–022	300,690,000
New York Metropolitan Transportation Authority (MTA).	Metro-North Railroad Power and Signals Resiliency Improvements.	D2013–RESL–023	37,500,000
New York Metropolitan Transportation Authority (MTA).	Internal Station Hardening (NYCT)	D2013–RESL–024	19,730,000
New York Metropolitan Transportation Authority (MTA).	Pumping Capacity Improvements (NYCT)	D2013–RESL–025	24,140,000
New York Metropolitan Transportation Authority (MTA).	Right-of-Way (ROW) Equipment Hardening in Flood-Prone Areas (NYCT).	D2013–RESL–026	63,550,000
New York Metropolitan Transportation Authority (MTA).	New York-New Jersey River to River Rail Resiliency (R4) Project (LIRR).	D2013–RESL–027	81,007,104
New York Metropolitan Transportation Authority (MTA).	Rockaway Line Protections (NYCT)	D2013–RESL–028	136,820,000
New York Metropolitan Transportation Authority (MTA).	Flood Resiliency for Critical Bus Depots (NYCT).	D2013–RESL–029	44,770,000
Southeastern Pennsylvania Transportation Authority (SEPTA).	SEPTA Ancillary Control Center Project	D2013–RESL–032	9,003,000
Southeastern Pennsylvania Transportation Authority (SEPTA).	SEPTA Railroad Embankment & Slope Stabilization Project.	D2013–RESL–033	18,739,000
Southeastern Pennsylvania Transportation Authority (SEPTA).	SEPTA Sharon Hill Line Flood Mitigation Project.	D2013–RESL–034	3,752,000
Southeastern Pennsylvania Transportation Authority (SEPTA).	SEPTA Railroad Signal Power Reinforcement Project.	D2013–RESL–035	32,026,000
Southeastern Pennsylvania Transportation Authority (SEPTA).	SEPTA Jenkintown Area Flood Mitigation Project.	D2013–RESL–036	14,987,000
Southeastern Pennsylvania Transportation Authority (SEPTA).	SEPTA Manayunk/Norristown Line Shoreline Stabilization Project.	D2013–RESL–037	4,502,000
Southeastern Pennsylvania Transportation Authority (SEPTA).	SEPTA Subway Pump Room Emergency Power Project.	D2013–RESL–038	3,749,000
Washington Metropolitan Area Transit Authority (WMATA).	Protecting the Subway System by Raising Ventilation Shaft Elevations.	D2013–RESL–039	13,500,000
Washington Metropolitan Area Transit Authority (WMATA).	Protecting WMATA's Existing Subway System Investment by Improving Drainage.	D2013–RESL–040	7,500,000
Total			3,591,883,625

[FR Doc. 2014–26244 Filed 11–4–14; 8:45 am]
BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2014–0091]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes an Information Collection Request (ICR) for which NHTSA intends to seek OMB approval.

DATES: Comments must be submitted on or before January 5, 2015.

ADDRESSES: You may submit comments identified by DOT Docket ID Number NHTSA–2014–0091 using any of the following methods:

Electronic submissions: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

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 number for this Notice. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Diane Wigle, Division Chief, Impaired Driving Division (NTI–111), Office of Impaired Driving and Occupant Protection, National Highway Traffic

Safety Administration, 1200 New Jersey Avenue SE., W44–301, Washington, DC 20590. Ms. Wigle's phone number is 202–366–2695 and her email address is *diane.wigle@dot.gov*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Title—Special Study on 18–24 Year Old Drivers Involved in Alcohol-Related Motor Vehicle Crashes

Type of Request—New information collection request

OMB Clearance Number—None.

Form Number—This collection of information uses no standard form

Requested Expiration Date of Approval—3 years from date of approval.

Summary of the Collection of Information—NHTSA has been particularly concerned with 18- to-24-year-old drivers' propensity for high-risk driving behaviors and overrepresentation in impaired driving crashes. While data collection efforts exist to identify basic demographics and some details of crash involvement, there is insufficient information to define the characteristics, circumstances, and patterns of 18-to-24-year-old drivers involved in alcohol-related motor vehicle crashes. NHTSA needs this information to design programs that are most likely to affect this age group. NHTSA plans to collect and analyze information on: (1) Environmental or behavioral conditions that may have played a role in the cause of the crash, (2) whether there is a correlation between trip purpose, type, frequency, departure, destination, or familiarity of location, (3) determine, other than age, if there are demographic commonalities, (4) determine methods of message delivery to be most highly accepted among this group.

Description of the Need for the Information and Proposed Use of the Information—NHTSA was established by the Highway Safety Act of 1970 (*23 U.S.C. 101*) to carry out the Congressional mandate to reduce the mounting number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle safety standards and traffic safety programs.

Every year, alcohol-impaired driving fatalities account for more than 30 percent of the total motor vehicle traffic fatalities in the United States. In 2012, 10,322 people died in alcohol-impaired-driving crashes. Yearly data from the National Center for Statistics and Analysis (NCSA) consistently show that nearly 30 percent of drivers age 18–24 involved in fatal crashes are alcohol impaired (BAC .08+). In addition, a significant amount of research has indicated that heavy and binge drinking, as well as signs of alcohol dependence and abuse, is high among this age group.

In support of its mission, NHTSA proposes to gather information on drivers age 18–24 involved in alcohol-related crashes and the circumstances of these crashes. A sample of non-alcohol-related crashes involving drivers age 18–24 will also be collected as a comparison group. NHTSA is requesting approval to gather information through the National Center for Statistics and Analysis (NCSA) new record-based data collection system to be launched in January 2016, which will replace the National Automotive Sampling System General Estimates System (NASS GES), and is called the Crash Report Sampling System (CRSS). NHTSA would like to gather additional information that isn't currently being collected. NHTSA did not identify any national databases with detailed information on impaired drivers age 18–24 and specifically the characteristics, circumstances, and patterns of being involved in alcohol-related crashes.

NHTSA is seeking approval to collect data from surviving drivers, who were age 18–24 years old at the time of the crash, on driver demographics, driving behavior, contributing crash factors, and other circumstances. If the driver is unavailable, NHTSA will collect data from surviving passengers of the vehicle driven by the 18–24 year old. NHTSA, other federal agencies such as the National Institute for Alcohol Abuse and Alcoholism (NIAAA), state and local governments, safety research organizations, and universities will use the data to design, develop, or determine which countermeasures are most likely to reduce impaired driving among 18 to 24 year olds. The purpose of this data collection is to provide critical information needed by NHTSA to design effective countermeasures that meet the Agency's mandate to improve highway traffic safety.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—The drivers and passengers will be identified through police reported crashes of which there are over 5 million every year. From the identified crashes involving 18–24 year old drivers, a random sample of reported crashes will be selected and weighted for a geographic representation of the nation. Since the data collection effort is intended to gather information on drivers involved in alcohol-related crashes and the circumstances of these crashes, a balanced representation of non-alcohol and alcohol-related crashes are required to make any meaningful findings. According to the General Estimates System (GES) 2012 file, 1,026 of 18,566 total drivers ages 18 to 24 were in alcohol-related crashes. To show comparisons and identify patterns between drivers involved and not involved in alcohol-related crashes at significant confidence levels and considering a response rate at 10%, investigators will need to make approximately 4,100 calls for an estimated 410 possible completed interviews. NHTSA proposes to make 6,000 contacts to be able to interview approximately 600 participants in 36 months. Participants are the surviving drivers and passengers who have detailed knowledge of the crash and the driver involved. Data will be collected by staff contracted to NHTSA under the CRSS program. Special investigators will use telephone and in-person interviews to gather information. Investigators may also make contact by sending a questionnaire by mail.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—NHTSA estimates 30 minutes for each interview for an estimated an annual burden of 100 hours and a total burden of 300 hours over a three year period. Based on median per capita income, the maximum total input cost, if all respondents were interviewed on the job, is estimated as follows: $22.01 per hour × 100 interviewing hours = $2,201 per year and $6,603 total over a three year period. There are no record keeping or reporting costs to respondents. All responses are provided spontaneously. Each respondent only participates once in the data collection. Thus there is no preparation of data required or expected of respondents. Respondents do not incur: (a) Capital and startup costs, or (b) operation, maintenance, and purchase costs for interviewing

Authority: 44 U.S.C. 3506(c)(2)(A)

Dated: October 31, 2014.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2014–26336 Filed 11–4–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Request for Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on February 14, 2014 (**Federal Register**/Vol. 79, No. 31/pp. 9038–9040).

DATES: Submit comments to the Office of Management and Budget (OMB) on or before December 5, 2014.

FOR FURTHER INFORMATION CONTACT: Alan Block at the National Highway Traffic Safety Administration, Office of Behavioral Safety Research (NTI–131), W46–499, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Block's phone number is 202–366–6401 and his email address is *alan.block@dot.gov*.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2127–New.

Title: Demonstration Tests of Different High Visibility Enforcement Models.

Form No.: NHTSA Forms 1121 and 1122.

Type of Review: Regular.

Respondents: Telephone interviews will be administered to residents in each of five selected communities who are drivers, age 18 and older, have access to a residential landline and/or a personal cell phone, and have consumed alcohol in the past year. In-person interviews will be conducted in each of the five selected communities at bars or other establishments serving alcohol with patrons age 21 and older.

Estimated Number of Respondents: A maximum of 18,000 telephone interviews and 6,000 in-person interviews with patrons of bars or other establishments serving alcohol.

Estimated Time per Response: 10 minutes per telephone interview and 10 minutes per interview with patrons of bars or other establishments serving alcohol.

Total Estimated Annual Burden Hours: 4,000 hours.

Frequency of Collection: There will be a maximum of three survey waves at each of the five community sites. A telephone survey and a survey of patrons at bars or other establishments serving alcohol will be conducted during each survey wave, with each respondent interviewed once. The drinking establishment interview will be split such that questions will be asked of each respondent both during entry and exit from the establishment.

Abstract: Highly visible enforcement (HVE) has had the strongest support in the research literature for effectiveness in reducing alcohol-impaired driving. The unknown at this time is the relationship of the amount of HVE to perceived likelihood within a community of an alcohol-impaired driver being stopped by law enforcement. In particular, does the perceived likelihood increase as the amount of HVE increases? And is the optimum effect on awareness and perceived likelihood achieved through an integrated program where HVE is integrated into regular law enforcement operations? NHTSA proposes to answer those questions by selecting community sites engaging in different levels of HVE activity during a one-year period, and measuring community awareness of those enforcement programs and the perceived likelihood of an alcohol-impaired driver being stopped by law enforcement.

Data collection to assess program awareness and perceptions of enforcement will be of two forms. Telephone surveys will be conducted in each community, with each survey wave composed of 1,200 completed interviews with drivers age 18 and older who have consumed alcohol in the past year. The second form of data collection will be in-person interviews with patrons at bars or other establishments serving alcohol. The intent here is to collect information on program awareness and perceived likelihood of an alcohol-impaired driver being stopped by law enforcement from a population with a heavier concentration of individuals at-risk of driving at illegal blood alcohol concentrations (BACs) than one would find in a community-wide telephone survey. The drinking establishment surveys will be conducted during the same times of the year as the telephone surveys. Four hundred bar patrons will be interviewed per community per survey wave, with a maximum of three survey waves. Respondents will be asked a few questions both upon entry and exit from the establishment. Breath samples will also be taken. The breath test results will not be available on-site but will be downloaded later.

In conducting the telephone interviews, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. No personal information will be collected that would allow any respondent to be identified. The data collection at drinking establishments would be anonymous; no personal information that would allow anyone to identify respondents will be collected.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for Department of Transportation, National Highway Traffic Safety Administration, or by email at *oira_submission@omb.eop.gov,* or fax: 202–395–5806.

Comments Are Invited on: whether the proposed collection of information

is necessary for the proper performance of the functions of the Department of Transportation, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this notice.

Authority: 44 U.S.C. 3506(c)(2)(A).

Issued in Washington, DC on October 31, 2014.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2014–26337 Filed 11–4–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0117, Notice No. 14–12]

International Standards on the Transport of Dangerous Goods

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meetings.

SUMMARY: This notice is to advise interested persons that on Wednesday, November 12, 2014, PHMSA will conduct a public meeting to discuss proposals in preparation for the 46th session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE TDG) to be held December 1 to December 9, 2014, in Geneva, Switzerland. During this meeting, PHMSA is also soliciting comments relative to potential new work items, which may be considered for inclusion in its international agenda.

Also, on Wednesday, November 12, 2014, the Department of Labor, Occupational Safety and Health Administration (OSHA) will conduct a public meeting (see Docket No. OSHA–H022k–2006–0062) to discuss proposals in preparation for the 28th session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS) to be held December 9 to December 11, 2014, in Geneva, Switzerland.

Time and Location: Both meetings will be held at the DOT Headquarters Conference Center, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590.

PHMSA public meeting: 9:00 a.m. to 12:00 noon EST, Conference Room 4.

OSHA public meeting: 1:00 p.m. to 4:00 p.m. EST, Conference Room 4.

Advanced Meeting Registration: The DOT requests that attendees pre-register for these meetings by completing the form at *https://www.surveymonkey.com/s/9WWZWR2.* Attendees may use the same form to pre-register for both the PHMSA and the OSHA meetings. Failure to pre-register may delay your access to the DOT Headquarters building. If participants are attending in person, arrive early to allow time for security checks necessary to obtain access to the building.

Conference call-in and ''live meeting'' capability will be provided for both meetings. Specific information on call-in and live meeting access will be posted when available at *http://www.phmsa.dot.gov/hazmat/regs/international* and at *http://www.osha.gov/dsg/hazcom/.*

FOR FURTHER INFORMATION CONTACT: Mr. Vincent Babich or Mr. Steven Webb, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–8553.

Supplementary Information on the PHMSA Meeting: The primary purpose of PHMSA's meeting will be to prepare for the 46th session of the UNSCOE TDG. The 46th session of the UNSCOE TDG is the fourth and final meeting scheduled for the 2013–2014 biennium. The UNSCOE will consider final proposals for the 19th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations, which may be implemented into relevant domestic, regional, and international regulations from January 1, 2017. Copies of working documents, informal documents, and the meeting agenda may be obtained from the United Nations Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c3age.html.*

General topics on the agenda for the UNSCOE TDG meeting include:

- Explosives and related matters
- Listing, classification and packing
- Electric storage systems
- Transport of gases
- Miscellaneous pending issues
- Global harmonization of transport of dangerous goods regulations with the Model Regulations
- Guiding principles for the Model Regulations
- Electronic data interchange for documentation purposes
- Cooperation with the International Atomic Energy Agency (IAEA)
- New proposals for amendments to the Model Regulations
- Issues relating to the Globally Harmonized System of Classification and Labeling of Chemicals (GHS)
- Program of work for the 2015–2016 biennium
- Draft resolution of the Economic and Social Council
- Election of Officers for the 2015–2016 biennium

Following the 46th session of the UNSCOE TDG, a copy of the Sub-Committee's report will be available at the United Nations Transport Division's Web site at *http://www.unece.org/trans/main/dgdb/dgsubc3/c3rep.html.* PHMSA's Web site at *http://www.phmsa.dot.gov/hazmat/regs/international* provides additional information regarding the UNSCOE TDG and related matters.

Supplementary Information on the OSHA Meeting: The **Federal Register** notice and additional detailed information relating to OSHA's public meeting will be available upon publication at *http://www.regulations.gov* (Docket No. OSHA–H022k–2006–0062) and on the OSHA Web site at *http://www.osha.gov/dsg/hazcom/.*

Signed at Washington, DC, on October 29, 2014.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 2014–26184 Filed 11–4–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35858]

C&NC Railroad, LLC—Lease Exemption Containing Interchange Commitment—Norfolk Southern Railway Company

C&NC Railroad, LLC (C&NC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to amend its agreement to lease from Norfolk Southern Railway Company (NSR) and operate 21 miles of rail line from (a) milepost CB5.4 at Beesons, Ind., to milepost 25.30 at New Castle, Ind., and (b) milepost R0.1 to milepost R1.16 at New Castle.[1]

[1] C&NC has filed the new lease agreement under seal pursuant to 49 CFR 1150.43(h)(1)(ii).

C&NC has leased and operated the lines since 1997.[2] The original lease agreement, dated December 18, 1997, by its terms, expired on December 31, 2009, and C&NC and NSR agreed to continue operations under the terms of the 1997 agreement pending renegotiation of a new lease. On March 11, 2011, the parties executed a new lease, which, by its terms, expires on March 11, 2021, and contains a lease provision enabling C&NC to reduce its lease payments by receiving a credit for each car interchanged with NSR. On June 17, 2011, C&NC filed a verified notice of exemption to renew its lease arrangement, which request was granted by decision served July 1, 2011.[3]

As required at 49 CFR 1150.43(h), C&NC has disclosed in this notice that the parties have recently amended their lease agreement to add a second interchange commitment as well as provisions reducing C&NC's lease payments. According to C&NC, it has encountered traffic reductions that have decreased the expected opportunity to reduce the rental obligations through the operation of the lease credits. In return for reduced rental payments, C&NC has agreed to a further interchange commitment.

C&NC has certified that its projected annual revenues as a result of the proposed transaction will not exceed those that would make it a Class III rail carrier and further certifies that its projected annual revenues would not exceed $5 million.

C&NC states that it intends to consummate the transaction on or after November 19, 2014, the effective date of the exemption (30 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 12, 2014 (at least 7 days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35858, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, Esq., 518 N. Center Street, Ste. 1, Ebensburg, PA 15931.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: October 31, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina White,

Clearance Clerk.

[FR Doc. 2014–26282 Filed 11–4–14; 8:45 am]

BILLING CODE 4915–01–P

[2] *See C&NC R.R.—Lease and Operation Exemption—Lines of the Norfolk and W. Ry. and Ind. Hi Rail,* FD 33475 (STB served Oct. 31, 1997).

[3] *See C&NC R.R.—Lease Renewal Exemption—Norfolk Southern Ry.,* FD 35529 (STB served July 1, 2011).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 526 (Sub-No. 6)]

Notice of Railroad-Shipper Transportation Advisory Council Vacancy

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of vacancies on the Railroad-Shipper Transportation Advisory Council (RSTAC) and solicitation of nominations.

SUMMARY: The Surface Transportation Board (Board) hereby gives notice of two vacancies for small railroad representatives on RSTAC. The Board is soliciting suggestions from the public for candidates to fill these two vacancies.

DATES: Suggestions of candidates for membership on RSTAC are due on December 3, 2014.

ADDRESSES: Suggestions may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 526 (Sub-No. 6), 395 E Street SW., Washington, DC 20423–0001 (if sending via express company or private courier, please use Zip Code 20024). Please note that submissions will be available to the public at the Board's offices and posted on the Board's Web site under Docket No. EP 526 (Sub-No. 6).

FOR FURTHER INFORMATION CONTACT: Gabriel Meyer at 202–245–0150. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Board exercises broad authority over transportation by rail carriers, including regulation of railroad rates and service (49 U.S.C. 10701–10747, 11101–11124), as well as the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901–10907), and railroad line sales, consolidations, mergers, and common control arrangements (49 U.S.C. 10902, 11323–11327).

RSTAC was established to advise the Board's Chairman, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives with respect to rail transportation policy issues that RSTAC considers significant. RSTAC focuses on issues of importance to small shippers and small railroads, including car supply, rates, competition, and procedures for addressing claims. ICCTA directs RSTAC to develop private-sector mechanisms to prevent, or identify and address, obstacles to the most effective and efficient transportation system practicable. The Secretary of Transportation and the members of the Board cooperate with RSTAC in providing research, technical, and other reasonable support. RSTAC also prepares an annual report concerning its activities and recommendations on regulatory or legislative relief it considers appropriate. RSTAC is not subject to the Federal Advisory Committee Act.

RSTAC consists of 19 members. Of this number, 15 members are appointed by the Chairman of the Board, and the remaining four members are comprised of the Secretary of Transportation and the Members of the Board, who serve as *ex officio,* nonvoting members. Of the 15 members, nine members are voting members and are appointed from senior executive officers of organizations engaged in the railroad and rail shipping industries. At least four of the voting members must be representatives of small shippers, as determined by the Chairman, and at least four of the voting members must be representatives of Class II or III railroads. The remaining six members to be appointed—three representing Class I railroads and three representing large shipper organizations—serve in a nonvoting, advisory capacity, but are entitled to participate in RSTAC deliberations.

RSTAC is required by statute to meet at least semi-annually. In recent years, RSTAC has met four times a year, with the first meeting each February. Most meetings are held at the Board's headquarters in Washington, DC, although some have been held in other locations.

RSTAC members receive no compensation for their services and are required to provide for expenses incidental to their service, including travel expenses, as the Board cannot provide for these expenses. The RSTAC Chairman, however, may request funding from the Department of Transportation to cover travel expenses, subject to certain restrictions in ICCTA. RSTAC also may solicit and use private funding for its activities, again subject to certain restrictions in ICCTA. RSTAC members currently have elected to submit annual dues to pay for RSTAC expenses.

RSTAC members must be citizens of the United States and represent as broadly as practicable the various segments of the railroad and rail shipper industries. They may not be full-time employees of the United States. According to revised guidance issued by the Office of Management and Budget, it is permissible for federally registered lobbyists to serve on advisory committees, such as RSTAC, as long as they do so in a representative capacity, rather than an individual capacity. *See Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions,* 79 FR 47,482 (Aug. 13, 2014). Members of RSTAC are appointed to serve in a representative capacity.

The members of RSTAC are appointed for a term of three years. A member may serve after the expiration of his or her term until a successor has taken office. No member will be eligible to serve in excess of two consecutive terms.

Two vacancies for small railroad representatives currently exist. Representatives must be senior executive officers within their organizations. Upon appointment by the Chairman, both representatives will serve for three years, and may be eligible to serve second three-year terms following the end of their first terms.

Suggestions for candidates to fill the two vacancies should be submitted in letter form, identify the name of the candidate, provide a summary of why the candidate is qualified to serve on RSTAC, and contain a representation that the candidate is willing to serve as a member of RSTAC effective immediately upon appointment. RSTAC candidate suggestions should be filed with the Board by December 3, 2014. Candidates selected to serve on RSTAC are chosen at the discretion of the Board's Chairman. Please note that submissions will be available to the public at the Board's offices and posted on the Board's Web site under Docket No. EP 526 (Sub-No. 6).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 726.

Decided: October 31, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–26288 Filed 11–4–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 670 (Sub-No. 2)]

Notice of Rail Energy Transportation Advisory Committee Vacancy

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of vacancy on federal advisory committee and solicitation of nominations.

SUMMARY: The Surface Transportation Board (Board) hereby gives notice of two vacancies on its Rail Energy Transportation Advisory Committee (RETAC) for a representative of the downstream segment of the domestic petroleum industry (e.g., refiners, petrochemical producers, natural gas liquids (NGL) producers/distributors, logistics service providers, and other downstream participants) and for a representative of the electric utility industry. The Board is soliciting suggestions from the public for candidates to fill these two vacancies.

DATES: Suggestions for candidates for membership on RETAC are due December 3, 2014.

ADDRESSES: Suggestions may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send the original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 670 (Sub-No. 2), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION, CONTACT: Michael H. Higgins at 202–245–0284. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board exercises broad authority over transportation by rail carriers, including rates and services (49 U.S.C. 10701–10747, 11101–11124), construction, acquisition, operation, and abandonment of railroad lines (49 U.S.C. 10901–10907), and consolidation, merger, or common control arrangements between railroads (49 U.S.C. 10902, 11323–11327).

In 2007, the Board established RETAC as a federal advisory committee consisting of a balanced cross-section of energy and rail industry stakeholders to provide independent, candid policy advice to the Board and to foster open, effective communication among the affected interests on issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, railroads, and users of energy resources. RETAC operates subject to the Federal Advisory Committee Act (5 U.S.C. App. 2, 1–16).

RETAC's membership is balanced and representative of interested and affected parties, consisting of not less than: five representatives from the Class I railroads; three representatives from Class II and III railroads; three representatives from coal producers; five representatives from electric utilities (including at least one rural electric cooperative and one state- or municipally-owned utility); four representatives from biofuel refiners, processors, or distributors, or biofuel feedstock growers or providers; one representative of the petroleum shipping industry; and two representatives from private car owners, car lessors, or car manufacturers. RETAC may also include up to two members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors. Members are selected by the Chairman of the Board with the concurrence of a majority of the Board. The Chairman may invite representatives from the U.S. Departments of Agriculture, Energy, and Transportation and the Federal Energy Regulatory Commission to serve on RETAC in advisory capacities as *ex officio* (non-voting) members. The three members of the Board serve as *ex officio* members of the Committee.

RETAC meets at least twice per year. Meetings are generally held at the Board's headquarters in Washington, DC, but may be held in other locations. Members of RETAC serve without compensation and without reimbursement of travel expenses unless reimbursement of such expenses is authorized in advance by the Board's Managing Director. According to revised guidance issued by the Office of Management and Budget, it is

permissible for federally registered lobbyists to serve on advisory committees, such as RETAC, as long as they do so in a representative capacity, rather than an individual capacity. *See Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions,* 79 FR 47,482 (Aug. 13, 2014). Members of RETAC are appointed to serve in a representative capacity. Further information about RETAC is available on the RETAC page of the Board's Web site at *http://www.stb.dot.gov/stb/rail/retac.html.*

The Board is soliciting nominations from the public for candidates to fill two vacancies on RETAC: (1) For a representative of the downstream segment of the domestic petroleum industry (e.g., refiners, petrochemical producers, NGL producers/distributors, logistics service providers, and other downstream participants); and (2) for a representative of the electric utility industry. Both vacancies are for a three-year term ending September 30, 2017.

Nominations for a candidate to fill this vacancy should be submitted in letter form and should include: (1) The name of the candidate; (2) the interest the candidate will represent; (3) a summary of the candidate's experience and qualifications for the position; (4) a representation that the candidate is willing to serve as a member of RETAC; and (5) a statement that the candidate agrees to serve in a representative capacity. Suggestions for candidates for membership on RETAC should be filed with the Board by December 3, 2014. Please note that submissions will be available to the public at the Board's offices and posted on the Board's Web site under Docket No. EP 670 (Sub-No. 2).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721; 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: October 31, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–26287 Filed 11–4–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3491

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3491, Consumer Cooperative Exemption Application.

DATES: Written comments should be received on or before January 5, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, Internal Revenue Service, room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Consumer Cooperative Exemption Application.

OMB Number: 1545–1941.

Form Number: Form 3491.

Abstract: A cooperative uses Form 3491 to apply for exemption from filing information returns (Forms 1099–PATR) on patronage distributions of $10 or more to any person during the calendar year.

Current Actions: There are no changes being made to the Form 3491 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit, individuals or households, and farms.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 44 minutes.

Estimated Total Annual Burden Hours: 148.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 8, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–26218 Filed 11–4–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Publication of Wait-Times for the Department for the Veterans Choice Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Access, Choice, and Accountability Act of 2014 directs the Department of Veterans Affairs (VA) to publish wait times for the scheduling of appointments in each VA facility for primary care, specialty care, and hospital care and medical services. This **Federal Register** Notice announces VA's publication of the wait times.

ADDRESSES: The wait-time data for all Veterans Health Administration (VHA) medical centers and clinics is available on the following Web site: *http://www.va.gov/health/access-audit.asp.*

FOR FURTHER INFORMATION CONTACT: Ms. Kristin J. Cunningham, Director, Business Policy (10NB6), Chief Business Office, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, Telephone: (202) 382–2508. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 206 of the Veterans Access, Choice, and Accountability Act of 2014 (Pub. L. 113–146, ''the Act'') directs the Department of Veterans Affairs (VA), not later than 90 days after the date of the enactment of the Act, to publish in the **Federal Register**, and on a publicly-accessible Internet Web site of each VA Medical Center, the wait-times for the scheduling of an appointment in each VA facility by a veteran for the receipt of primary care, specialty care, and hospital care and medical services based on the general severity of the condition of the veteran. Whenever the wait-times for the scheduling of such an appointment change, the Secretary is also required to publish the revised wait times on a publicly-accessible Internet Web site of each VA Medical Center not later than 30 days after such change, and in the **Federal Register** not later than 90 days after such change.

This **Federal Register** Notice announces the publication of the wait-times of the Veterans Health Administration (VHA) for primary care, specialty care, and mental health care as required by section 206 of the Act. VA is working to develop an accurate method for tracking and reporting wait times for hospital care and medical services and will begin reporting that data as soon as it is available.

This data release contains a new method of reporting. The previous method calculated wait time based on the create date (the date an appointment is made) and based on the desired date for scheduling an appointment. The previous method also reported data separately for new and established patients. The current method uses the date that an appointment is deemed clinically appropriate by a VA health care provider, or if no such clinical determination has been made, the date a veteran prefers to be seen, to calculate wait times and reports the wait times for all patients combined. This is consistent with the wait-time goals of VHA published in the **Federal Register** on October 17, 2014. 79 FR 62519. As required by section 206, the new data is also reported for each VHA facility, down to the level of Community-Based Outpatient Clinics.

For this release, VA is publishing two reports, one that provides wait times data as of October 1 based on the previous reporting method, and one that reports the wait-times data for the same time period based on current reporting method. VA will continue to report average wait times using both methods for a period of time sufficient for veterans to become accustomed to the new reporting method.

The following is a summary of the wait times data, based on preferred appointment date, that is published at *http://www.va.gov/health/access-audit.asp.* This data can also be accessed from the Web sites of each VA Medical Center following the release of each update. The average wait times for primary care, specialty care, and mental health care by Veterans Integrated Service Network (VISN) are provided in the following tables:

SAMPLE TABLE WAIT TIMES BY VISN: CURRENT METHOD

VISN	Primary care average wait time	Specialty care average wait time	Mental health average wait time
VISN 1	4.60	5.50	4.30
VISN 2	3.24	7.54	3.82
VISN 3	2.39	4.66	1.94
VISN 4	4.24	8.13	2.67
VISN 5	7.83	6.69	4.14
VISN 6	13.49	8.12	6.83
VISN 7	11.29	7.93	4.89
VISN 8	3.75	7.90	2.53
VISN 9	8.04	4.61	4.12
VISN 10	4.60	6.94	2.77
VISN 11	3.67	4.71	1.99
VISN 12	5.32	7.73	3.67
VISN 15	2.59	5.95	2.51
VISN 16	7.52	7.12	4.37
VISN 17	9.72	5.95	7.16
VISN 18	10.98	10.59	7.50
VISN 19	10.28	8.50	8.33
VISN 20	6.18	7.75	1.91
VISN 21	6.71	9.77	2.78
VISN 22	6.66	9.05	4.78
VISN 23	3.94	5.00	2.35

Note: Wait Time is calculated from the veteran's preferred date or clinically appropriate date. Average wait time represents the average number of days patients are waiting for an appointment as of 10/1/2014. Primary Care is composed of three DSS Stop Codes, Specialty Care is composed of 41 DSS Stop Codes, and Mental Health is composed of 7 DSS Stop codes.

SAMPLE TABLE WAIT TIMES BY VISN: PREVIOUS REPORTING METHOD

VISN	New primary care average wait time	New specialty care average wait time	New mental health average wait time	Established patient primary care average wait time	Established patient specialty care average wait time	Established patient mental health average wait time
VISN 1	36.99	39.24	26.55	4.51	5.15	4.23
VISN 2	36.77	48.57	28.69	3.14	6.63	3.72
VISN 3	23.58	32.37	26.56	2.35	4.15	1.86

SAMPLE TABLE WAIT TIMES BY VISN: PREVIOUS REPORTING METHOD—Continued

VISN	New primary care average wait time	New specialty care average wait time	New mental health average wait time	Established patient primary care average wait time	Established patient specialty care average wait time	Established patient mental health average wait time
VISN 4	35.73	41.36	30.92	4.14	7.74	2.57
VISN 5	52.26	39.27	64.56	7.29	6.36	4.08
VISN 6	55.99	43.68	37.63	12.50	7.58	6.52
VISN 7	50.37	48.28	34.14	10.27	6.89	4.62
VISN 8	44.26	46.52	33.17	3.66	7.09	2.44
VISN 9	54.96	47.08	34.62	7.66	4.18	4.02
VISN 10	32.09	37.47	34.05	4.39	6.37	2.68
VISN 11	30.22	39.91	25.51	3.50	4.28	1.82
VISN 12	27.10	36.77	29.14	5.23	7.35	3.64
VISN 15	35.79	43.30	31.82	2.45	5.27	2.47
VISN 16	37.73	43.85	35.98	7.23	6.69	4.17
VISN 17	47.43	36.06	29.92	9.27	5.64	6.97
VISN 18	38.86	42.97	41.71	10.61	9.59	7.36
VISN 19	49.40	43.73	33.91	8.56	7.34	8.13
VISN 20	37.48	49.88	39.77	5.98	6.05	1.81
VISN 21	33.24	41.10	28.44	6.69	9.16	2.64
VISN 22	34.35	43.73	39.56	6.35	8.21	4.44
VISN 23	29.89	43.12	33.76	3.89	4.33	2.25

Note: Wait Time is calculated from appointment create date for new patient appointments and from appointment desired date for established patient appointments. Average wait time represents the average number of days patients are waiting for an appointment as of 10/1/2014. Primary Care is composed of three DSS Stop Codes, Specialty Care is composed of 41 DSS Stop Codes, and Mental Health is composed of 7 DSS Stop codes.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, approved this document on October 30, 2014, for publication.

Dated: October 31, 2014.

William F. Russo,

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

[FR Doc. 2014–26274 Filed 11–4–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Wednesday,

No. 214 November 5, 2014

Part II

Nuclear Regulatory Commission

10 CFR Part 50

Approval of American Society of Mechanical Engineers' Code Cases; Final Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2009–0359; NRC–2013–0133]

RIN 3150–AI72

Approval of American Society of Mechanical Engineers' Code Cases

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to incorporate by reference the latest revisions of three NRC Regulatory Guides (RGs) approving new and revised Code Cases published by the American Society of Mechanical Engineers. This action allows nuclear power plant licensees, and applicants for construction permits, operating licenses, combined licenses, standard design certifications, standard design approvals, and manufacturing licenses, to use the Code Cases listed in these RGs, as alternatives to engineering standards for the construction, inservice inspection, and inservice testing of nuclear power plant components. This final rule changes NRC's regulations to address a petition for rulemaking (PRM), PRM–50–89, submitted by Mr. Raymond West. The final rule also restructures the NRC's requirements governing Codes and standards to align with the Office of the Federal Register's guidelines for incorporating documents by reference.

This final rule announces the availability of the final versions of the three RGs that are being incorporated by reference, and a related RG, not incorporated by reference into the NRC's regulations, that lists Code Cases that the NRC has not a*pproved for use.* For additional information on these RGs, see Section XVII, Availability of Regulatory Guides, of this document.

DATES: This final rule is effective on December 5, 2014. The incorporation by reference of RG 1.84, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' Revision 36 (May 2014); RG 1.147, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,'' Revision 17 (May 2014); and RG 1.192, ''Operation and Maintenance Code Case Acceptability, ASME OM Code,'' Revision 1 (May 2014) is approved by the Director of the Office of the Federal Register as of December 5, 2014.

ADDRESSES: Please refer to Docket ID NRC–2009–0359 when contacting the NRC about the availability of information for this final rule and RGs 1.84, 1.147 and 1.192. Please refer to Docket ID NRC–2013–0133 when contacting the NRC about the availability of information for RG 1.193. You may obtain publicly-available information related to this final rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0359. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.
- *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 ''Availability of Documents'' 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: Jenny Tobin, Office of Nuclear Reactor Regulation; telephone: 301–415–2328, email: *Jennifer.Tobin@nrc.gov;* or Wallace Norris, Office of Nuclear Regulatory Research, telephone: 301–251–7650; email: *Wallace.Norris@nrc.gov;* both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Executive Summary

The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to incorporate by reference the latest revisions of three NRC Regulatory Guides (RGs) approving new and revised Code Cases published by the American Society of Mechanical Engineers (ASME). The three RGs incorporated by reference are RG 1.84, Revision 36; RG 1.147, Revision 17; and RG 1.192, Revision 1. This action allows nuclear power plant licensees, and applicants for construction permits, operating licenses, combined licenses, standard design certifications, standard design approvals, and manufacturing licenses, to use the Code Cases listed in these RGs as alternatives to engineering standards for the construction, inservice inspection, and inservice testing of nuclear power plant components.

The NRC is announcing the availability of the final versions of the three RGs that are being incorporated by reference, and a final version of RG 1.193, Revision 4, not incorporated by reference into the NRC's regulations, that lists Code Cases that the NRC has not approved for generic use.

This final rule also includes changes to the NRC's regulations that address a petition for rulemaking (PRM), PRM–50–89, submitted by Mr. Raymond West. Mr. West requested that the NRC amend its regulations to allow consideration of alternatives to NRC-approved ASME Boiler and Pressure Vessel and Operation and Maintenance of Nuclear Power Plants Code Cases. This final rule resolves Mr. West's petition and represents the NRC's final action on PRM–50–89.

Lastly, this final rule resequences the NRC's requirements in § 50.55a of Title 10 of the *Code of Federal Regulations* (10 CFR), governing Codes and standards to align with Office of the Federal Register's guidelines for incorporating published standards by reference.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Opportunity for Public Participation
A. Overview of Public Comments
Table I—Comment Submissions Received on the Proposed Rule and Draft Regulatory Guides
III. Public Comment Analysis
A. NRC Reponses to Public Comments on Proposed Rule
B. NRC Responses to Public Comments on Draft Regulatory Guides
IV. NRC Approval of New and Amended ASME Code Cases
A. ASME Code Cases Approved for Unconditional Use
Table II—Unconditionally Approved Code Cases
B. ASME Code Case Approved for Use With Conditions
Table III—Conditionally Approved Code Cases
C. ASME Code Cases Not Approved for Use
V. Petition for Rulemaking (PRM–50–89)
VI. Changes Addressing the Office of the Federal Register's Guidelines on Incorporation by Reference
VII. Addition of Headings to Paragraphs
A. NRC's Convention for Headings and Subheadings
B. Readers Aids
VIII. Paragraph-by-Paragraph Discussion
IX. Regulatory Flexibility Certification
X. Regulatory Analysis
XI. Backfitting and Issue Finality
XII. Plain Writing

XIII. Finding of No Significant Environmental Impact: Environmental Assessment
XIV. Paperwork Reduction Act Statement
XV. Congressional Review Act
XVI. Voluntary Consensus Standards
XVII. Availability of Regulatory Guides
XVIII. Availability of Documents

I. Background

The American Society of Mechanical Engineers (ASME) develops and publishes the ASME Boiler and Pressure Vessel (BPV) Code, which contains requirements for the design, construction, and inservice inspection (ISI) and examination of nuclear power plant components, and the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM) Code, which contains requirements for inservice testing (IST) of nuclear power plant components. In response to BPV and OM Code user requests, the ASME develops ASME Code Cases that provide alternatives to BPV and OM Code requirements under special circumstances.

The NRC approves and/or mandates the use of the ASME BPV and OM Codes in § 50.55a of Title 10 of the *Code of Federal Regulations* (10 CFR) through the process of incorporation by reference (IBR). As such, each provision of the ASME Codes incorporated by reference into, and mandated by, § 50.55a, ''Codes and standards,'' constitutes a legally-binding NRC requirement imposed by rule. As noted previously, ASME Code Cases, for the most part, represent alternative approaches for complying with provisions of the ASME BPV and OM Codes. Accordingly, the NRC periodically amends § 50.55a to incorporate by reference NRC Regulatory Guides (RGs) listing approved ASME Code Cases that may be used as alternatives to the BPV and OM Codes. See **Federal Register** notice (FRN), ''Incorporation by Reference of ASME BPV and OM Code Cases'' (68 FR 40469; July 8, 2003).

This rulemaking is the latest in a series of rulemakings that incorporate by reference new versions of several RGs identifying new and revised [1] unconditionally or conditionally acceptable ASME Code Cases that are approved for use. In developing these RGs, the NRC staff reviews ASME BPV and OM Code Cases, determines the acceptability of each Code Case, and publishes its findings in the RGs. The RGs are revised periodically as new Code Cases are published by the ASME. The NRC incorporates by reference the RGs listing acceptable and conditionally acceptable ASME Code Cases into § 50.55a. Currently, NRC RG 1.84, Revision 35, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III''; RG 1.147, Revision 16, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1''; and RG 1.192, Revision 0, ''Operation and Maintenance Code Case Acceptability, ASME OM Code,'' are incorporated into the NRC's regulations at 10 CFR 50.55a, ''Codes and standards.''

This final rule adds provisions that allow the NRC to authorize alternatives to NRC-approved ASME BPV and OM Code Cases, as requested in a petition for rulemaking (PRM) that was submitted to the NRC on December 14, 2007, and revised on December 19, 2007, by Mr. Raymond West (ADAMS Accession No. ML073600974). A detailed discussion of the PRM is provided in Section V, ''Petition for Rulemaking (PRM–50–89),'' of this document.

II. Opportunity for Public Participation

On June 24, 2013 (78 FR 37886), the NRC published a proposed rule in the **Federal Register** that would incorporate by reference RG 1.84, Revision 36; RG 1.147, Revision 17; and RG 1.192, Revision 1. On the same date, the NRC published a parallel FRN announcing the availability of the three draft RGs and opportunity for public comment (78 FR 37721; June 24, 2013). The NRC provided a 75-day public comment period for both the proposed rule and the draft RGs, which ended on September 9, 2013.

A. Overview of Public Comments

The NRC received a total of 10 comment submissions. The submissions were received from three private citizens, four utility organizations, and three industry groups that provide engineering and inspection services to the utilities. Table I lists the commenter's name and affiliation, ADAMS accession number for the comment submission, and the Code Case or subject of each comment.

TABLE I—COMMENT SUBMISSIONS RECEIVED ON THE PROPOSED RULE AND DRAFT REGULATORY GUIDES

Commenter name	Affiliation	Comment submission ADAMS Accession No.	Affected code cases/subject
William Culp	Private Citizen	ML13210A143	Proposed Rule.
Saige Stephens	Private Citizen	ML13210A151	General.
Richard Swayne	ASME	ML13253A076	N–60–5.
		ML13252A286 **	N–416–4.
			N–561–2.
			N–562–2.
			N–597–2.
			N–606–1.
			N–619.
			N–648–1.
			N–661–2.
			N–702.
			N–739–1.
			N–798.
			N–800.
			N–659–2.
			Proposed Rule.
Mark Richter	Nuclear Energy Institute	ML13259A040	Proposed Rule.
		ML13254A080 **	

[1] ASME Code Cases can be categorized as one of two types: New or revised. A new Code Case provides for a new alternative to specific ASME Code provisions or addresses a new need. A revised Code Case is a revision (modification) to an existing Code Case to address, for example, technological advancements in examination techniques or to address NRC conditions imposed in one of the regulatory guides that have been incorporated by reference into 10 CFR 50.55a.

TABLE I—COMMENT SUBMISSIONS RECEIVED ON THE PROPOSED RULE AND DRAFT REGULATORY GUIDES—Continued

Commenter name	Affiliation	Comment submission ADAMS Accession No.	Affected code cases/subject
Edward Colie	South Carolina Electric and Gas	ML13254A082	Proposed Rule.
Patricia Campbell	GE Hitachi Nuclear Energy	ML13259A038	1332–6.
Devin Kelley	AREVA	ML13259A039	N–71–18.
David Helker	Exelon Generation Company, LLC	ML13269A371	N–60–5. N–798. N–800. N–702.
Shawn Comstock	Private Citizen	ML13182A081	OMN–1 (2006 Addenda). OMN–11 (2006 Addenda). OMN–12 (2004 Edition).
Roy Hall	Inservice Inspection Program Owners Group.	ML13197A239	N–805.

** There are two ADAMS accession numbers for the submissions from ASME and the Nuclear Energy Institute because each submission contained comments on the proposed rule and the drafts RGs. Both accession numbers are for the same incoming submission, but one accession number is identified in ADAMS as a response to the **Federal Register** notice soliciting comments on the proposed rule and the other is identified as a response for the draft RGs.

III. Public Comment Analysis

The NRC has reviewed every comment submission and has identified 42 unique comments requiring NRC consideration and response. Comment summaries and the NRC responses are presented in this section. Comment responses have been organized in two categories: (A) NRC Responses to Public Comments on Proposed Rule and (B) NRC Responses to Public Comments on Draft RGs, further delineated by individual RG (i.e., RG 1.84, RG 1.147, and RG 1.192).

A. NRC Reponses to Public Comments on Proposed Rule

Proposed Rule

Comment: The commenter developed a proposed one-page revision to the overall Codes and standards rule in § 50.55a that reflects the commenter's view of the current regulatory process and suggested parsing the details of § 50.55a to the appropriate RGs. The commenter provided the background and bases for his proposed rule structure, and stated that the purpose of his proposal is to simplify the overall structure of § 50.55a. (Culp–3)

NRC Response: The main purpose of this rulemaking is to amend § 50.55a to incorporate by reference the latest revisions of three RGs approving new and revised Code Cases published by ASME. This rulemaking also proposes to: (1) Resolve a petition for rulemaking (PRM–50–89) submitted by Mr. Raymond West, (2) resequence the NRC's requirements governing Codes and standards in order to align with the latest guidelines of the OFR for IBR, and (3) add headings (explanatory titles) to paragraphs and lower-level subparagraphs of § 50.55a.

The NRC is not proposing a major restructuring or simplification of the requirements in § 50.55a. As explained in the statement of considerations in the proposed rule, the proposed editorial, non-substantive changes were made to align with the IBR guidance for multiple standards that is included in Chapter 6 of the OFR's, ''Federal Register Document Drafting Handbook,'' January 2011 Revision. These changes will structure NRC's regulations consistent with other Federal regulations that incorporate by reference multiple standards. Although NRC welcomes public comments on the revised structure of § 50.55a, the NRC is limited in the types of changes it can make in response to public comments on the revised structure and must align with the OFR's guidance.

Adding headings at the paragraph and subparagraph levels of § 50.55a will enhance the reader's ability to identify the subject matter of each paragraph and subparagraph. These headings are a first step toward addressing longstanding complaints about the readability and complex structure of § 50.55a. The NRC is not making significant structural changes to the rule at this time, but may, in the future, consider doing so in a separate rulemaking. The NRC would consider the commenter's suggestions and proposed rule language if and when NRC conducts that rulemaking. At this time, however, the NRC considers the commenter's suggestion to be outside the scope of this proposed rulemaking.

No change was made to the final rule as a result of this comment.

Comment: The purpose and scope of the rule has changed over time, and no longer reflects the actual regulatory process for review of consensus industry Codes and standards that have been found acceptable to the NRC staff on a generic basis or as part of a plant-specific review process that covers more than the Codes and standards mentioned. It does not seem appropriate for § 50.55a to reference Codes and standards that have been withdrawn (e.g., IEEE 279). The content of § 50.55a represents an archive of once-upon-a-time requirements, not contemporary Codes and standards. It is not necessary to recapitulate what Codes and standards were approved on individual applications; applicants retain design and safety responsibility (including identification of unreviewed safety questions) that might arise from new regulatory guides, Codes and standards, and operating experience. The following Codes, standards, and Code Cases in the proposed regulation are not the latest and conditions are imposed on the use of superseded documents which would preferably not be used for new design or ISI activities (the conditions are most likely fully documented in the licenses, safety analyses, and ISI programs for individual nuclear power plants as approved by the NRC): (Culp–3.1, 3.3, 3.9)

a. ASME III and Code Case N–729–1 (N–729–4 Is Approved by ASME)

b. ASME XI

c. IEEE 279

NRC Response: The NRC disagrees with the assertion that the proposed rule does not reflect the actual regulatory process for review of consensus industry Codes and standards that have been found acceptable to the NRC staff. Section II, ''Discussion,'' of the proposed rule described the three-step process that the NRC follows to determine the acceptability of new and revised Code Cases and the need for regulatory positions on the uses of these

Code Cases. The fundamental process has not changed over time. Also, the Code of Record for design and construction does not change over time unless there is a voluntary update by the licensee. As such, these codes and standards must be referenced in § 50.55a as long as they are in use.

Any Code or standard still in use must continue to be listed in the regulation, or licensees would have to discontinue their use when the rule becomes effective and immediately implement the latest version. These Codes and Code Cases are still in use and, therefore, may not be removed from § 50.55a without unacceptably changing their legal status from mandatory requirements or approved for use, to guidance.

No change was made to the final rule as a result of this comment.

Comment: The current language and structure of § 50.55a blurs the lines between the requirements for a quality program and for safety. (Culp–3.2)

NRC Response: The NRC believes this is an out of scope comment because it addresses the clarity of the requirements in § 50.55a in this rulemaking. The scope of this rulemaking is to: (1) Incorporate by reference the three Regulatory Guides identifying NRC-approved ASME Code Cases; and (2) to reorganize the section to address Office of the Federal Register requirements for incorporation by reference.

However, the NRC provides the following response to the out of scope comment. The NRC notes that the commenter did not provide any rationale why the rulemaking blurs the distinction between quality assurance and safety. In addition, the NRC notes that the reorganization of § 50.55a fundamentally addressed the paragraph identifying the ASME and IEEE codes that are incorporated by reference. The reorganization did not change any of the NRC requirements with respect to quality assurance or safety.

No change was made to the final rule as a result of this comment.

Comment: The proposed reorganization of § 50.55a uses the unconventional numbering hierarchy (a), (1), (i), (A). This is difficult to follow in the existing rule which is very long. It is even more difficult to follow in the proposed regulation with or without added introductory statements. (Culp–3.4)

NRC Response: The NRC has added headings to the paragraph and subparagraph levels of § 50.55a to aid the reader of this regulation. The hierarchy used in § 50.55a is that which is used throughout the *Code of Federal Regulations* and is dictated by the OFR. The NRC is also considering developing additional user aides.

No change was made to the final rule as a result of this comment.

Comment: The proposed regulation states that the regulation is consistent with a policy to review and accept industry standards instead of writing regulations; this is not achieved in practice due to delays in endorsing new Code editions and addenda. In at least some cases, the unendorsed newer Code revisions have been specifically made to incorporate the conditions, exceptions, and limitations in § 50.55a. (Culp–3.5)

NRC Response: The NRC appreciates the ASME's efforts to consider the NRC's concerns as addressed in conditions to § 50.55a. The NRC agrees that delays in approving new ASME Code editions and Code Cases can be counterproductive with respect to implementation of improvements in ASME Code requirements. The NRC continues to assess ways to improve the rulemaking process to find schedule efficiencies.

No change was made to the final rule as a result of this comment.

Comment: There is too much detail in the proposed regulation; NRC concerns should be more appropriately organized and put into consensus Code and Code Case work and topical regulatory guides. The proposed regulation is excessively detailed and covers an extraordinary range of subjects; the diverse NRC conditions ranging from grease caps to relief valve testing facility capabilities could be better organized and documented in regulatory guides on the specific topic (e.g., RG 1.90). (Culp–3.6)

NRC Response: The NRC agrees that there are many conditions in § 50.55a. It should be noted, that certain conditions are necessary because applicants and licensees continue to use many different Code editions and addenda. Accordingly, it is necessary to continue to list conditions that may have been addressed by a later Code edition because the earlier Code edition is still in use. The NRC determined that other conditions, such as those addressing grease caps, are necessary to ensure that safety-related concerns are adequately addressed.

With respect to the suggestion to use RGs, the NRC notes that RGs normally provide guidance and describe approaches that would be acceptable to the NRC for implementing a rule. Under the approach suggested in the comment, the RG would have to be incorporated by reference into § 50.55a in order for the provisions in the regulatory guides to continue to be legally-binding. In enclosure 5 to the comments submitted by the ASME, the ASME encouraged the NRC to consider alternative methods for endorsing ASME Codes and standards, such as moving many of the requirements currently specified in § 50.55a into a suitable regulatory guide that can be referenced within the regulation. The NRC agrees that the format and organization of § 50.55a could be improved, and the NRC may, in the future, conduct a rulemaking to restructure and simplify § 50.55a. The public would be given opportunity to comment before implementation.

No change was made to the final rule as a result of this comment.

Comment: There are multiple reviews and opportunities for staff review and public comment without necessarily also requiring comment on the proposed regulations to ''incorporate by reference'' what started as a simple reference to ASME III. The process of a comment in Code committee, comment on proposed regulatory guides, and comment on Code Cases seems adequate. Yet, comments from NRC representatives in Code meetings do not, according to their own words, ''carry the weight of the NRC staff endorsement,'' and some conditions have arisen after Code committees have finished reviews and published revisions. (Culp–3.7)

NRC Response: The NRC staff representatives on ASME Code committees have the opportunity to participate during the consideration of the Code cases during the ASME standards process. These individuals can provide input to the cases both before and after ASME endorsement. However, this participation is not a substitute for the technical, legal, and management reviews that must be conducted with respect to a complete rulemaking prior to issuance.

The second issue in this comment concerns public involvement in the rulemaking process involved in incorporating by reference those Code cases that the NRC has reviewed and approved. In accordance with the Administrative Procedures Act, the public is afforded an opportunity for review and comment, unless there is reasonable likelihood that there will be no ''significant adverse comment'' on a proposed rule. Past NRC experience suggests that the NRC will receive at least one ''significant adverse comment'' on each § 50.55a proposed rule.

No change was made to the final rule as a result of this comment.

Comment: The proposed revision to § 50.55a is very complicated and seems to be contrary to multiple claims in the discussion points in the proposed rule regarding: (Culp–3.8)

a. Paperwork reduction

b. Regulatory flexibility
c. Plain writing
d. Backfitting and issue finality

NRC Response: The NRC does not agree with the comment. The comment did not explain why the proposed Paperwork Reduction Act statement, Regulatory Flexibility Certification, Plain Writing discussion, or Backfitting and Issue Finality discussion is contrary to the proposed regulation. Complexity by itself does not mean that the NRC's proposed discussions on the four areas are inadequate or in error. Furthermore, the bulk of the changes in this rulemaking involve the reorganization of the rule. Therefore, the comment incorrectly implies that this rulemaking is the reason for the ''complexity'' of § 50.55a.

No change was made to the final rule as a result of this comment.

Comment: Should Mechanical Engineers become the new regulated embodiment of manufacturing arms? Change administration using international standards. (Stephens–4.1)

NRC Response: The NRC is unable to respond to this comment because of its ambiguous nature.

No change was made to the final rule as a result of this comment.

Comment: The NRC should amend its regulations to allow consideration of alternatives to the ASME BPV and OM Code Cases, as requested in a petition for rulemaking submitted by Mr. Raymond West (PRM–50–89) (ADAMS Accession No. ML073600974). The possibility of implementing an alternative to a Code Case approved by the Director of the Office of Nuclear Reactor Regulation will reduce the administrative burden on licensees and significantly reduce the lengthy process of proposing and gaining acceptance for a change or modification to a Code Case. The ASME supports the proposed changes in § 50.55a(z) to address PRM–50–89. (NEI–6.2, ASME–5.5.1)

NRC Response: The NRC agrees. Authorizing an alternative to an NRC-approved ASME Code Case reduces the administrative burden on the NRC and licensees. A complete discussion of the bases is set forth in Section V, ''Petition for Rulemaking (PRM–50–89).''

The final rule includes a provision in 50.55a(z) allowing the NRC to authorize alternatives to NRC-approved ASME Code Cases.

Comment: The ASME believes changes for **Federal Register** guidelines have been crafted to minimize administrative burden. (ASME–5.5.2)

NRC Response: No response is necessary.

Comment: Paragraph headings will improve readability. (ASME–5.5.3)

NRC Response: No response is necessary.

Comment: In general, the proposed RGs and related documents are written in a clear and effective manner, consistent with the Plain Writing Act and the Presidential Memorandum, ''Plain Language in Government Writing.'' Well-written regulatory guidance documents support their correct interpretation and implementation (NEI–6.2).

NRC Response: No response necessary.

Comment: The proposed changes to 10 CFR 50.55a would place a large burden on licensees. As discussed in Section VI, these changes would ''require substantial rewriting of these procedures and documents to correct the references to the old (superseded) sections, paragraphs and subparagraphs.'' For licensees, these revisions would include licensing documentation. None of the proposed organizational changes to 10 CFR 50.55a pertain to any of the provisions of 10 CFR 50.109(a)(4), since no information is changing and is merely reorganized. This means that in order to reorganize 10 CFR 50.55a, backfit analysis would have to be performed in accordance with 10 CFR 50.109. There is no need to change the location of the content in 10 CFR 50.55a (South Carolina Electric and Gas–7.1).

NRC Response: As indicated in Section V, ''Changes Addressing Office of the Federal Register's Guidelines on Incorporation by Reference,'' of the proposed rule, the reorganization of content was made in accordance with the revised guidance for incorporation by reference of multiple standards that is included in Chapter 6 of the OFR's, ''Federal Register Document Drafting Handbook,'' January 2011 Revision. All Federal agencies were directed to align with the guidelines. The OFR's guidance provided several options for incorporating by reference multiple standards into regulations. The NRC found moving the incorporation by reference of multiple standards into the first paragraph of § 50.55a(a) to be the least disruptive option. These changes, which are required by the OFR, are not within the purview of the backfit rule, and no further consideration of backfitting is needed to address the OFR-mandated reorganization.

No change was made to the final rule as a result of this comment.

Comment: The NRC should consider adding hyperlinks and indentation to § 50.55a because it would aid readers in navigating the rule. (South Carolina Electric and Gas–7.2)

NRC Response: The NRC appreciates these practical suggestions and agrees that adding hyperlinks or indentation would aid the readers in navigating § 50.55a. However, the NRC is unable to add hyperlinks or indentation to a rule published in the *Code of Federal Regulations.* Format requirements for the *Code of Federal Regulations* are established and enforced by the OFR, and do not permit inclusion of hyperlinks or a different indentation scheme. Please note that the NRC has prepared two documents to aid the reader in navigating § 50.55a: ''Final Reorganization of Paragraphs and Subparagraphs in 10 CFR 50.55a, 'Codes and standards' '' (ADAMS Accession No. ML14015A191) and ''Cross-Reference Tables'' (ADAMS Accession No. ML14211A050—package with two tables). The NRC is currently considering developing several alternatives to improve the format and organization of § 50.55a in a potential future rulemaking. The NRC plans to seek public interaction as part of the rulemaking process.

No change was made to the final rule as a result of this comment.

B. NRC Responses to Public Comments on Draft Regulatory Guides

Regulatory Guide 1.84, Revision 36 (DG–1230)

Code Case N–60–5

Comment: Text in the proposed condition should be corrected to change ''stain-hardened'' to ''strain-hardened.'' (ASME–5.1.1, Exelon–10.1)

NRC Response: The NRC agrees with the comment.

RG 1.84, Revision 36 has been corrected in accordance with the comment.

Code Case 1332–6

Comment: Appendix C of DG–1230 states that Code Case 1332–6 is contained in Table 5. However, Code Case 1332–6 does not appear in Table 5. (GE Hitachi Nuclear Energy–8.1)

NRC Response: The NRC agrees with this comment. Code Case 1332–6 has been added to Table 5 in RG 1.84, Revision 36, which lists those Section III Code Cases that have been superseded by revised Code Cases.

Code Case N–71–18

Comment: The American Welding Society (AWS) Code D1.1 was reformatted, and the provisions in paragraph 4.5.2.2 were relocated to paragraph 5.3.2.3 in the AWS Code. The paragraph references for AWS D1.1 in condition No. 3 to Code Case N–71–18

should be revised accordingly. (AREVA–9.1)

NRC Response: The NRC agrees with this comment. The reference in condition 3 to Code Case N–71–18 has been corrected in RG 1.84, Revision 36 by referring to paragraph ''5.3.2.3.''

Regulatory Guide 1.147, Revision 17 (DG–1231)

Code Case N–416–4

Comment: The NRC condition on this Code Case requiring nondestructive examination of welded or brazed repairs, and fabricated and installed joints, in accordance with the construction code of record, imposes an unnecessary burden on licensees and is not necessary to ensure safe operation. The BPV Code has long relied on a specified relationship between NDE and allowable stresses, i.e., vintage codes, such as American National Standards Institute (ANSI) B31.1 or Section III, have lower allowable stresses, due to the fact that NDE is generally not required, whereas nuclear codes (ASME Section III and B31.7) have higher allowable stress intensities for Class 1 components relative to Class 2 and 3 components (due mostly to the additional examinations required for Class 1 components).

The NRC stated that ''A system pressure test or hydrostatic pressure test does not verify the structural integrity of the repaired piping components.'' The ASME has never established any relationship between the test pressure to which a component is subjected and any other material or design characteristic. The primary technical consideration in development of the required test pressure is to ensure that it is low enough to prevent yielding of the material. Hydrostatic testing does not prove structural integrity; it proves only leak tightness. Similarly, NDE alone does not ensure structural integrity. The ASME Code ensures structural integrity through a combination of many factors, including material testing, design formulas, design factors, and qualification of personnel. Adding more NDE than required by the Construction Code (be it ASME Section III or B31.1) is not required to ensure structural integrity. (ASME–5.2.1)

NRC Response: The NRC disagrees with the comment that the additional NDE requirements imposed when using Code Case N–416–4 are unnecessary and imply that existing components are unsuitable. The NRC does agree that hydrostatic pressure testing or NDE alone does not ensure structural integrity. The original Construction Codes ensured structural integrity through a combination of many factors including material testing, design formulas, design factors, qualification of procedures, qualification of personnel, NDE, and hydrostatic testing. Code Case N–416–4 would allow a system leakage test to be performed in lieu of (1) a hydrostatic pressure test prior to return to service of Class 1, 2, and 3 welded or brazed repairs; (2) fabrication welds or brazed joints for replacement parts and piping subassemblies; or (3) installation of replacement items by welding or brazing.

The NRC believes that the rigorous NDE requirements of Section III should be performed when the hydrostatic pressure test is not performed. The reason for this condition is that some earlier Construction Codes have less stringent NDE requirements than Section III; however, they require a greater pressure for the Code Case N–416–4 required hydrostatic test. Section III NDE requirements for Class 1, 2, and 3 components generally require either surface or volumetric examinations or possibly both. The NRC believes that these NDE requirements along with a system leakage test provide the same level of quality and safety as the higher pressure hydrostatic test and reduced NDE requirements of earlier Construction Codes.

No changes were made to RG 1.147, Revision 17, as a result of this comment.

Code Case N–561–2

Comment: Proposed Conditions (1) and (3) should be eliminated. Proposed Conditions (1) and (3) limit the life of the repair ''until the next refueling outage'' for repairs performed on a wet surface or if the cause of the degradation has not been determined. The Code Case already limits the life of the repair to ''one fuel cycle'' for these same situations. The ASME Code committee considered both phrases when revising this Code Case to add these restrictions, and intentionally chose ''one fuel cycle'' instead of ''next refueling outage'' so as not to imply that such weld overlays could not be performed while a plant is shut down for a refueling outage. In such a case, literal application of ''next refueling outage'' could mean the current refueling outage, which could be an extreme hardship, depending on the timing of the discovery of the need for a weld overlay. Use of the term ''one fuel cycle'' clearly requires that the overlay be removed during the subsequent fuel cycle no later than the same point in the cycle at which the overlay was applied. In the vast majority of cases, this will happen during the next refueling outage; otherwise, a special outage or a special limiting condition of operation would be required mid-cycle in order to effect its removal. (ASME–5.2.2.a)

NRC Response: The NRC disagrees with the comment on the ''next refueling outage.'' The NRC finds that the suggested phrase, ''next fuel cycle,'' is not as conservative as ''the next refueling outage'' phrase because the ''next fuel cycle'' condition would permit longer service time to the repair that is performed on a wet surface, or the cause of the degradation has not been determined.

To clarify the difference between the ''next refueling outage'' vs. ''one fuel cycle,'' the NRC staff uses the following example. Assume fuel cycle No. 1 is followed by refueling outage No. 1, fuel cycle No. 2, and refueling outage No. 2. Under the ''next refueling outage'' condition, if a repair is performed during fuel cycle No. 1, regardless whether on the first day or last day of fuel cycle No. 1, the ''next refueling outage'' would be refueling outage No. 1 during which time the repair needs to be removed. If the repair is performed during refueling outage No. 1, the next refueling outage would be refueling outage No. 2 during which time the repair needs to be removed. Under the ''next fuel cycle'' condition, if a repair is performed in the middle of fuel cycle No. 1, the next fuel cycle would mean fuel cycle No. 2 during which time the repair needs to be removed. However, this condition does not specify exactly when in the next fuel cycle (fuel cycle No. 2) the repair must be removed. A licensee could interpret the next fuel cycle as the entire fuel cycle No. 2 and remove the repair after fuel cycle No. 2 is completed. This means that the licensee could remove the repair during refueling outage No. 2. Some licensees may choose to remove the overlay during refueling outage No. 1 as the comment stated, but based on the interpretation described earlier, the repair does not need to be removed during refueling outage No. 1.

No changes were made to RG 1.147, Revision 17, as a result of this comment.

Code Case N–561–2

Comment: Proposed Condition (2) on Code Case N–561–2 should be eliminated. Proposed Condition (2) prohibits the use of the exemption listed in paragraph 6(c)(1) of this case. The provisions in paragraph 6(c)(1) are identical to existing, approved provisions of IWA 4520, Examination, in the 2001 Edition of ASME Section XI.

Weld overlays are base metal repairs, and are therefore already exempt by Section XI, IWA–4520 (2001 and later editions and addenda). This exemption

was only included in revision 2 of Code Cases N–561 and N–562; and also in Revision 1 of Code Case N–661–2 which was approved by Regulatory Guide 1.147, Rev. 16, without this condition, to enable plants not yet implementing the 2001 or later edition and addenda to apply the exemption which had been accepted by the NRC in § 50.55a.

Paragraph 6(a) of the case requires a surface examination of the completed weld overlay to provide additional assurance of the quality of the repair weld. ASME believes that this requirement is sufficient for Class 3 applications in locations where the Construction Code would not require volumetric examination of full penetration butt welds in that location. Further, with the added condition of ultrasonically examining the base metal to verify absence of cracking, the benefit of/need for volumetric examination is significantly reduced. (ASME–5.2.2.b)

NRC Response: The NRC agrees that proposed condition (2) can be eliminated. Paragraph 6(c)(1) of the Code Case states that ''Class 3 weld overlays are exempt from volumetric examination when the Construction Code does not require the full penetration butt welds in the same location be volumetrically examined.'' Section XI, paragraph IWA–4520(a)(1), 2001 Edition and later, states that ''Base metal repairs on Class 3 items are not required to be volumetrically examined when the Construction Code does not require that full-penetration butt welds in the same location be volumetrically examined.'' As indicated in the comment, the exemptions are identical. The NRC unconditionally approved paragraph IWA–4520(a)(1) in the 2001 Edition through 2008 Addenda. Therefore, it would be inconsistent to retain the condition on the Code Case.

The NRC has removed proposed Condition (2) on Code Case N–561–2 from the final RG 1.147, Revision 17.

Code Case N–561–2 and N–661.2

Comment: Proposed Condition (5) on Code Case N–561–2 is unwarranted and should be removed or modified.

The rationale for this condition is to reduce the chances of producing a suspect weld (i.e., one made on a wet surface). Additionally, proposed Conditions (1), (2), (3), and (5) are unwarranted for reasons listed in comments provided on Code Case N 561–2.

Footnote 6 in Code Cases N–561–2 and N–661–2 (and footnote 5 in N–562–2) states: ''Testing has shown that piping with areas of wall thickness less than the diameter of the electrode may burn-through during application of a water-backed weld overlay.'' Testing performed by the Electric Power Research Institute (EPRI) and described in EPRI Report TR–108131, ''Weld Repair of Class 2 and 3 Ferritic Piping,'' demonstrated that this criteria applies to application of weld overlays under both pressurized (up to 500 psi during the testing) and non-pressurized conditions (during this testing, specimens that burned-through were successfully welded-up using the shielded metal arc welding process with water leaking from the pipe; and those specimens passed the subsequent burst testing at pressures beyond the minimum burst pressure of new pipe). The results were the same in both situations—if the electrode diameter exceeded the thickness being welded, burn-through was likely—irrespective of internal pressure. If the thickness of the base metal equaled the thickness of the electrode, burn through would not occur, regardless of internal pressure. To require depressurization in such cases—in order to reduce the chances of producing a suspect weld—would cause extreme hardships, with no technical justification.

Code Cases N–561–1, N–562–1, and N–661–1 each contained the statement: ''4(b) Piping with wall thickness less than the diameter of the electrode shall be depressurized before welding.'' This was changed to a footnote for editorial purposes in revision 2 of each Code Case. If the NRC believes that Condition (5) must be retained in Table 2 of RG 1.147, the ASME recommends that this condition be revised to read ''Piping with wall thickness less than the diameter of the electrode shall be depressurized before welding.'' This wording is consistent with that specified in paragraph 4(b) of Code Case N–661–1, which is currently listed in Table 2 of RG 1.147. (ASME–5.2.2.c and ASME–5.2.7)

NRC Response: The NRC agrees with the comment.

The NRC staff has reviewed the EPRI report and finds that the ASME recommendation has merit because it is supported by experimental data. The results of the research shows that if the thickness of the base metal equals the thickness of the electrode then burn through will not occur regardless of internal pressure. There were five conditions in the draft regulatory guide issued for public comment. The NRC agreed in a response to a separate comment (follows below) to remove condition (2) regarding the exemption from volumetric examination of Class 3 weld overlays. Condition (5) in the draft regulatory guide has therefore been renumbered as condition (4) in the final regulatory guide, and the NRC has revised it consistent with the ASME recommendation.

Comment: Proposed Conditions (1), (2), (3), and (5) are unwarranted for reasons listed in comments provided on Code Case N–561–2. However, if the NRC believes that Condition (5) must be retained in Table 2 of RG 1.147, this condition be revised to read ''Piping with wall thickness less than the diameter of the electrode shall be depressurized before welding.'' This wording is consistent with that specified in paragraph 4(b) of Code Case N–661–1, which is currently listed in Table 2 of RG 1.147. (ASME–5.2.3)

NRC Response: Code Case N–562–2 is similar to Code Case N–561–2. Therefore, the NRC's position on conditions in Code Case N–561–2 are also applicable to Code Case N–562–2. Therefore, the NRC has determined to retain Conditions (1) and (3) as proposed. Proposed Condition (2) has been removed; paragraph 6(c)(1) of the Code Case states that ''Class 3 weld overlays are exempt from volumetric examination when the Construction Code does not require the full penetration butt welds in the same location be volumetrically examined.'' Section XI, paragraph IWA–4520(a)(1), 2001 Edition and later, states that ''Base metal repairs on Class 3 items are not required to be volumetrically examined when the Construction Code does not require that full-penetration butt welds in the same location be volumetrically examined.'' As indicated in the comment, the exemptions are identical. The NRC unconditionally approved paragraph IWA–4520(a)(1) in the 2001 Edition through 2008 Addenda. Therefore, it would be inconsistent to retain the condition on the Code Case.

Due to the removal of Condition (2), proposed Conditions (3), (4), and (5) have been renumbered as Conditions (2), (3), and (4). Proposed Condition (5) has been revised as recommended in the comment.

Code Case N–597–2

Comment: It is unclear whether proposed Condition (6) prohibits the use of the Code Case for moderate-energy Class 2 and 3 piping. If the intent of this condition is to allow the use of this case only until the next refueling outage for moderate-energy Class 2 and 3 piping, this condition should be clarified. In addition, the reference to Code Case N–513–2 should be removed from the proposed condition since Code Case N–513–3 is listed in Table 2 of RG 1.147. Because the condition imposed on the use of Code Case N–513–3 already restricts the use of N–513–3 until a

repair/replacement activity can be performed during the next refueling outage, the proposed condition is not needed for Code Case N–597–2. Proposed Condition (6) should, therefore, be removed or revised to clarify the intent. (ASME–5.2.4)

NRC Response: The NRC disagrees with this comment. As discussed in the statement of considerations for the proposed rule (78 FR 37886; June 24, 2013), the NRC had received a comment in a previous rulemaking (74 FR 26303; June 2, 2009), suggesting that the method described in Code Case N–513–2 for the temporary acceptance of flaws in moderate energy piping be added to Code Case N–597–2. The NRC agreed that it should be permissible under certain circumstances for licensees to evaluate local pipe wall thinning under Code Case N–597–2 without the NRC review and acceptance. The intent of Condition (6) was to reference the method in Code Case N–513–2 so that all of the provisions, formulas, graphs, and figures would not have to be duplicated in conditions to Code Case N–597–2.

As also discussed in the statement of considerations for the proposed rule, the circumstances under which such an evaluation is conducted must be limited, because Code Case N–597–2 is applicable to all the ASME Code class piping (including high energy piping), whereas Code Case N–513–2 is limited to Class 2 and 3 moderate energy piping. The NRC has only approved temporary acceptance of flaws for moderate energy Class 2 or 3 piping (maximum operating temperature does not exceed 200 °F (93 °C) and maximum operating pressure does not exceed 275 psig (1.9 MPa)). In addition, it is not appropriate to apply the method under Code Case N–597–2 to evaluate through-wall leakage conditions.

Condition (6) in the proposed rule stated, ''For moderate-energy Class 2 and 3 piping, wall thinning acceptance criteria may be determined on a temporary basis (until the next refueling outage) based on the provisions of Code Case N–513–2. Moderate-energy piping is defined as Class 2 and 3 piping whose maximum operating temperature does not exceed 200 °F (93 °C) and whose maximum operating pressure does not exceed 275 psig (1.9 MPa). Code Case N–597–2 shall not be used to evaluate through-wall leakage conditions.''

This condition has been revised in RG 1.147, Revision 17, to read as follows: ''The evaluation criteria in Code Case N–513–2 may be applied to Code Case N–597–2 for the temporary acceptance of wall thinning (until the next refueling outage) for moderate-energy Class 2 and 3 piping. Moderate-energy piping is defined as Class 2 and 3 piping whose maximum operating temperature does not exceed 200 °F (93 °C) and whose maximum operating pressure does not exceed 275 psig (1.9 MPa). Code Case N–597–2 shall not be used to evaluate through-wall leakage conditions.''

Code Case N–606–1

Comment: The proposed condition to Code Case N–606–1 is already inherently required.

The surface preparation and cleaning prior to welding are considered to be standard requirements by Welding Programs complying with § 50.55a specified Codes and 10 CFR part 50, appendix B Quality Assurance Programs. Furthermore, these requirements are already required/implied by the reference to the ASME Section IX and paragraph 3(e) of the Case. Many other instances where welding is performed, even temper bead welding, can be found in Code Cases and in Code that do not explicitly specify this level of detail since such details are included in the Owner's or the Owner's Repair Organization's Welding Procedure Specification/Welding Program. Therefore, this condition should be removed from the regulatory guide. (ASME–5.2.5)

NRC Response: The NRC agrees that, the second sentence of the proposed condition is redundant with requirements in Section III NB–4412. The NRC removed the second sentence of the condition.

The NRC disagrees with the comment's suggestion to remove the first and third sentences of the condition. The original version of Code Case N–606, and other temper bead Code Cases (such as N–638–5), require that prior to welding base metal, a surface examination shall be performed on the area to be welded, so there is precedent for this level of detail in temper bead Code Cases. This verification is not required by Section IX of the ASME Code. The NRC has determined that this verification is necessary to assure the necessary quality level for temper bead welding. Therefore, the condition is necessary. No change was made to the first and third sentences of the condition in response to this comment.

Code Case N–619 and N–648–1

Comment: The NRC should not include the condition to Code Case N–619 and N–648–1 which requires the 1-mil wire standard for qualification of visual examinations for components within the scope of these code cases. Research has shown that characters on a printed chart are a better resolution standard than the use of 1-mil wire.

The use of printed characters for qualification will improve the resolution of visual examinations, thus improving the capability of the technique in detecting indications for which the examinations are performed. (ASME–5.2.6.a, ASME–5.2.6.b)

NRC Response: Visual resolution sensitivity techniques are used to ensure the capabilities of the examiner, and that a camera, when used, is operating properly. The NRC conducted a preliminary assessment of remote visual testing at Pacific Northwest National Laboratory. The results were published in NUREG/CR–6860, ''An Assessment of Visual Testing,'' which is available on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/contract/*. The 1-mil wire standard had been implemented in response to the requirement in the condition for a resolution sensitivity of 1-mil. The preliminary assessment identified issues with respect to the accuracy of using a wire as a performance demonstration standard. Other issues were also identified. This led to the development of a cooperative research program between the NRC and the EPRI. This is the research effort referenced in ASME's comment. While issues had been identified with the use of a wire standard, the NRC decided to not consider changes in the condition to Code Case N–619 until the cooperative research had progressed, and it could be determined if there were other issues that should be considered regarding visual examination.

The research has not identified any issues calling into question the use of characters as a resolution standard. In addition as described in NUREG/CR–6860, the research demonstrated that the character resolution standard was superior to the wire standard. The NRC finds the ASME's suggestion to remove the requirement for a 1-mil wire for VT–1 procedure demonstration acceptable.

The condition has been revised to remove the 1-mil wire standard and to allow the use of printed characters.

Code Case N–702

Comment: The proposed condition for Code Case N–702 should be modified to reference BWRVIP–241: BWR Vessel and Internals Project, ''Probabilistic Fracture Mechanics Evaluation for the Boiling Water Reactor Nozzle-to-Vessel Shell Welds and Nozzle Blend Radii,'' EPRI Technical Report 1021005, October 2010 (ADAMS Accession No. ML11119A041). The proposed condition should be revised to read as follows: (ASME–5.2.8)

The technical basis supporting the implementation of this Code Case is addressed by BWRVIP–108, and BWRVIP–241. The applicability of Code Case N–702 must be shown by demonstrating that the criteria in Section 5.0 of NRC Safety Evaluation regarding BWRVIP–108 dated December 18, 2007 (ADAMS Accession No. ML073600374), or Section 5.0 of NRC Safety Evaluation regarding BWRVIP–241 dated April 19, 2013 (ADAMS Accession No. ML13071A240), are met. The evaluation demonstrating the applicability of the Code Case shall be reviewed and approved by the NRC prior to the application of the Code Case.

NRC Response: The NRC agrees with the suggestion to reference BWRVIP–241 in the condition. By letter dated April 19, 2013 (ADAMS Accession No. ML13071A233), to the Chairman of the BWR Vessel and Internals Project, the NRC stated that BWRVIP–241 was acceptable for referencing subject to the limitations specified in the technical report and in the NRC Safety Evaluation. The BWRVIP–241 was not referenced in the proposed condition to ASME Code Case N–702 because the draft RG was already in the review process when the NRC Safety Evaluation for BWRVIP–241 was released. The basis for including BWRVIP–241 in the reference is as follows.

The BWRVIP–108 provides the technical basis document for ASME Code Case N–702 regarding reduction of the inspection of reactor pressure vessel (RPV) nozzle-to-vessel shell welds and nozzle inner radius areas from 100 percent to 25 percent for each nozzle type every 10 years. The BWRVIP–241 provides additional probabilistic fracture mechanics (PFM) analyses to support its proposed changes to the NRC staff's criteria specified in the Safety Evaluation on BWRVIP–108. Based on the additional PFM results supporting the revised criteria, along with BWR RPV inspection results which show no indications of inservice degradation, the NRC staff determined that the inspection of 25 percent of each RPV nozzle type each 10-year interval is justified.

Licensees who plan to request relief from the ASME Code, Section XI requirements for RPV nozzle-to-vessel shell welds and nozzle inner radius sections may reference the BWRVIP–241 report as the technical basis for the use of ASME Code Case N–702 as an alternative. However, licensees should demonstrate the plant-specific applicability of the BWRVIP–241 report to their units in the relief request by addressing the conditions and limitations specified in Section 5.0 of the NRC Safety Evaluation for BWRVIP–241. The suggested condition is identical to the proposed condition in the draft RG other than adding the reference to BWRVIP–241 in two places. Therefore, the NRC finds the comment's proposal to be acceptable.

The condition on ASME Code Case N–702 has been revised to reference BWRVIP–241.

Code Case N–739–1

Comment: The American Concrete Institute (ACI) report referenced in the condition to Code Case N–739–1 should be clarified to reference ACI 201.1R. Note that the ASME has taken action to issue an erratum to correct this error in the Code Case and Section XI. The reference to ACI 201.1 R is correctly shown in Table IWA–1600–1. (ASME–5.2.9)

NRC Response: The NRC agrees with the comment. The letter ''R'' was missing in the reference in Code Case N–739–1. The ACI uses the letter ''R'' to distinguish reports from standards. With the ASME approval of an erratum to the Code Case restoring the letter ''R,'' the NRC can remove the condition in final RG 1.147, Revision 17.

The NRC has unconditionally approved Code Case N–739–1 in RG 1.147, Revision 17.

Code Cases N–798 and N–800

Comment: Although Code Cases N–798 and N–800 have not been included in DG–1231, the NRC should include both of these cases in the next draft revision to RG 1.147. Until such time that N–798 and N–800 are included in RG 1.147, owners will continue to seek relief pursuant to § 50.55a(a)(3) [§ 50.55a(z) in the draft rule] to use provisions of these cases or similar alternatives. (ASME–5.2.10)

NRC Response: The NRC agrees with the comment and plans to address these code cases in Supplement 11 to the 2007 Edition through Supplement 10 to the 2010 Edition in draft Revision 18 to RG 1.147. Code Cases N–798 and N–800 were not included in the draft regulatory guide because they were issued in Supplement 4 to the 2010 Edition, which was not considered for this regulatory guide.

No change was made to this final rule as a result of this comment.

Regulatory Guide 1.192, Revision 1 (DG–1232)

Code Case OMN–1

Comment: DG–1232 incorrectly identifies ASME Code Case OMN–1 (2006 Addenda) as ''Revision 0.'' The version of OMN–1 published with the 2006 Addenda does not include the identifier, ''Revision 0.'' (Comstock-2.1)

NRC Response: The NRC agrees with this comment. The ASME OMN–1 Code Case published with the 2006 Addenda did not include the identifier ''Revision 0.'' Accordingly, RG 1.192, Revision 1, has been revised to remove the words ''Revision 0'' from the first sentence of the first paragraph in Table 2, under OMN–1 conditions.

Comment: The descriptions in the first and second sentence say OMN–1 may be used in lieu of the provisions for stroke time testing. However, OMN–1 says it may be used in place of all provisions with the exception of leak testing. The conditions placed on the use of OMN–1 restrict its use in place of existing other ISTC requirements, such as position indication verification and periodic (quarterly, cold shutdown, refueling outage) exercising. All provisions of ISTC are implemented in OMN–1 with the exception of leak testing. The leak testing requirement of ISTC is referenced as a necessary requirement by the Code Case. Strike out the words ''stroke-time'' in the first and second sentences of Table 2 in DG–1232 to resolve this problem. (Comstock-2.2)

NRC Response: The NRC disagrees with this comment. The general discrepancy noted in the comment is that draft RG 1.192 (DG–1232) states OMN–1 ''may be used in lieu of the provisions for stroke time testing'' versus OMN–1, which states ''it may be used in place of all provisions.'' After evaluating the comment, the NRC believes both statements are correct and the same for the following reasons.

The requirements of the ASME OM Code, Subsection ISTC, can be simplified as having three test requirements:

1. ISTC–3500—''Valve Testing Requirements''
2. ISTC–3600—''Leak Testing Requirements''
3. ISTC–3700—''Position Verification Testing''

Section ISTC–3500 of the ASME OM Code describes valve test requirements, such as exercise test frequency and obturator movement verification. Specific instructions for the different valve types can be found in Section ISTC–5000, ''Specific Testing Requirements,'' of the ASME OM Code. The ASME OM Code section for specific test requirements for motor-operated valves (MOVs) is ISTC–5120. The first specific instruction for an MOV test is ISTC–5121(a), ''Valve Stroke Testing,'' which states, ''Active valves shall have their stroke times measured when exercised in accordance with ISTC–3500.'' The specific instruction for the

stroke-time test encompasses all the requirements of ISTC–3500. Leak testing requirement ISTC–3600 remains the same. The position verification test is not specifically spelled out in the ASME OM Code Case OMN–1, but credit is given on the basis that OMN–1 requires diagnostic testing of MOVs to verify that they are set up correctly and will meet their design basis function.

The comment also stated that all provisions of ISTC are implemented in OMN–1. This statement is not fully accurate. After a recent industry valve failure, it has been noted by the ASME OM Code Subgroup committee on MOVs that the ASME OM Code Case OMN–1 does not directly address the issue of verifying obturator movement, which is required in Section ISTC–3530. The subgroup committees for ISTC and MOVs are currently working on addressing this issue. Also, a review of past NRC documents, regulatory guides, and safety evaluations were completed. The majority of the NRC correspondence refers to ASME OM Code requirements for MOVs as being ''stroke time testing.''

No change has been made to RG 1.192, Revision 1, as a result of this comment.

Code Case OMN–11

Comment: In DG–1232, delete the first sentence in Condition (2) on OMN–11 (2006 Addenda). It exceeds the NRC's authority.

In DG–1232, the conditions on OMN–11 (2006 addenda) add an unnecessary administrative burden.

In DG–1232, in the discussion of OMN–11 (2006 addenda), Condition (1) should be deleted. This defeats the purpose of alternate requirements.

In DG–1232, in the discussion of OMN–11 (2006 addenda), Condition (2) should be deleted. The OMN–11 3(b) rule requires the same treatment to be applied as OMN–1 3.5(b) by requiring an evaluation of all test results for every MOV in the group. The OMN–11 3(d) rule requires all low safety significant components (LSSC) to be tested over a 10-year period. This requires the same treatment to be applied as OMN–1 3.5(d) over a 10-year period, which requires testing for all valves in the group. The OMN–1 3.5(e) simply says the test results for a representative MOV from the group shall be applied to all MOVs in the group when doing the section 6 analyses and evaluation. This is the same rule described within the OMN–11 3(b) requirement that requires test results from an individual valve within a group to be applied to all MOVs within the group.

In DG–1232, in the discussion of OMN–11 (2006 addenda), Condition (3) should be deleted. It is already imposed for OMN–1 (required for OMN–11).

In DG–1232, in the discussion of OMN–11 (2006 addenda), note 1 should be deleted because it is circular and provides no guidance or information.

In DG–1232, in the discussion of OMN–11 (2006 addenda), note 2 directs the reader to the wrong edition (2004) for OMN–1. If it referenced 2006, it would not provide any new information.

In DG–1232, in the discussion of OMN–11 (2006 addenda), note 3 should be incorporated into Table 2 OMN–1 note 2 or deleted. (Comstock-2.3)

NRC Response: The NRC agrees that the specification of conditions in Table 2 of RG 1.192 on Code Case OMN–11 in the 2006 Addenda of the ASME OM Code is not necessary because OMN–1 in the 2006 Addenda has incorporated the provisions from OMN–11. Therefore, OMN–11 has been deleted from Table 2 of RG 1.192. A new Note 2 has been included for OMN–1 in Table 2 of RG 1.192 explaining the incorporation of OMN–11 into OMN–1 such that the use of OMN–11 in the 2006 Addenda is no longer appropriate. Table 3 of RG 1.192 continues to specify conditions for the use of OMN–11 in the 2001 Edition, 2003 Addenda, and 2004 Edition of the OM Code for those superseded versions of OMN–11. In particular, Condition (1) on OMN–11 indicates that all provisions in OMN–1 must be satisfied, except those allowed to be relaxed by the risk-informed provisions in OMN–11. Condition (2) on OMN–11 indicates that only specific provisions for grouping of MOVs in OMN–1 may be relaxed through the use of OMN–11. Condition (3) on OMN–11 is repeated from a similar condition on OMN–1 because OMN–11 has a specific section on high risk MOVs. Note 1 on OMN–11 in Table 3 of RG 1.192 indicates that the permission to use allowable risk ranking methodologies applies to both OMN–1 and OMN–11. There are no additional notes on OMN–11 in Table 3 of RG 1.192.

Code Case OMN–12

Comment: Code Case OMN–12 should be removed from DG–1232 since its application will always require NRC permission to implement due to the ASME OM Code for which it applies. The conditions described for the use of ASME Code Case OMN–12 do not allow it to be applied to any other ASME OM Code for which it was written (ASME OM Code 1998). In light of the current 10 CFR 50.55a regulations, this renders the Code Case unusable for anyone in the USA through the application of RG 1.192. The extra conditions also make the application of OMN–12 so burdensome, that no one would be willing to incur the extra expense and administrative burden associated with implementing this process under the Inservice Testing Program. (Comstock-2.4)

NRC Response: The NRC disagrees with this comment. The comment seems to be interpreting that the NRC is endorsing the use of OMN–12 only if the licensee's IST Program is based on the 1998 Code. That is not the case. The NRC accepts with conditions the use of OMN–12 with any Code from 1998 up to and including the 2006 Addenda.

No change has been made to the final rule as a result of this comment.

Table 3—Code Cases That Have Been Superseded by Revised Code Cases

Comment: Table 3 of DG–1232 should be deleted. It serves no useful purpose. The information is available via other sources. It delays the rule. (Comstock–2.5)

NRC Response: The NRC disagrees with this comment. Table 3 in RG 1.192 lists those OM Code Cases that have been superseded by revised Code Cases. Similar tables exist in RGs 1.84 and 1.147 addressing Section III and Section XI Code Cases respectively. Section 50.55a allows applicants and licensees to continue to apply superseded Code Cases for the remainder of an inservice inspection or testing interval. The ASME procedures require that the latest version of a Code Case be implemented. If not for the provision in the regulation, licensees would be required to update their inservice inspection and testing programs for every Code Case that is revised (i.e., that the licensee or applicant had previously implemented). Accordingly, any Code and standard that has been incorporated by reference into § 50.55a and is still in use must continue to be listed in the regulation.

No change has been made to RG 1.192, Revision 1, as a result of this comment.

Regulatory Guide 1.193, Revision 4 (DG–1233)

Code Case N–659–2

Comment: In DG–1233, in the discussion of N–659–2, there is a typographical error on page 7. It should say ''radiography,'' not ''radiology.'' (ASME–5.4.1)

NRC Response: The NRC agrees with this comment.

The NRC corrected the title of Code Case N–659–2 in RG 1.193, Revision 4.

N–805

Comment: The U.S. Nuclear Regulatory Commission (NRC) should consider including in this rulemaking Code Case N–805, ''Alternative to Class 1 Extended Boundary End of Interval or Class 2 System Leakage Testing of the Reactor Vessel Head Flange O-Ring Leak-Detection System Section XI, Division 1.'' (Inservice Inspection Program Owners Group–1.1)

NRC Response: The NRC declines to adopt the suggestion to adopt Code Case N–805 in the final rulemaking and final regulatory guide. Code Case N–805 was published by the ASME in Supplement 6 to the 2010 Edition which was not considered for inclusion in this rulemaking and draft regulatory guide. The NRC plans to include Code Case N–805 in draft Revision 18 to RG 1.147 which is scheduled for public comment in spring 2015.

No change was made to the final rule as a result of this comment.

IV. NRC Approval of New and Amended ASME Code Cases

This final rule incorporates by reference the latest revisions of the NRC's RGs that list ASME BPV and OM Code Cases the NRC finds to be acceptable or ''conditionally acceptable'' (i.e., NRC-specified conditions). Regulatory Guide 1.84, Revision 36 (ADAMS Accession No. ML13339A515), supersedes the incorporation by reference of Revision 35; RG 1.147, Revision 17 (ADAMS Accession No. ML13339A689), supersedes the incorporation by reference of Revision 16; and RG 1.192, Revision 1 (ADAMS Accession No. ML13340A034), supersedes the incorporation by reference of Revision 0.

This final rule addresses two categories of ASME Code Cases. The first category of Code Cases are the new and revised Section III and Section XI Code Cases listed in Supplements 1 through 10 to the 2007 Edition of the BPV Code, and the OM Code Cases published with the 2002 Addenda through the 2006 Addenda. The second category is the Code Cases that were not addressed in the final rule published in the **Federal Register** on October 5, 2010 (75 FR 61321). The 2010 final rule addressed the new and revised Section III and Section XI Code Cases listed in Supplements 2 through 11 to the 2004 Edition and Supplement 0 to the 2007 Edition of BPV Code. Public comments were received during the proposed rule stage (June 2, 2009; 74 FR 26303) on (Code Cases N–508–4, N–597–2, N–619, N–648, N–702, and N–748) requesting that the NRC include certain revised Code Cases in the final guides that were not listed in the draft guides. The NRC determined that the revised Code Cases represented changes significant enough to warrant broader public participation prior to the NRC making a final determination of them. Accordingly, the NRC requested comment on these Code Cases in the proposed rule (June 24, 2013; 78 FR 37886). The comment responses shown earlier include responses to those Code Cases.

The latest editions and addenda of the ASME BPV and OM Codes that the NRC has approved for use are referenced in § 50.55a. The ASME also publishes Code Cases that provide alternatives to existing Code requirements developed and approved by ASME. The final rule incorporated by reference RGs 1.84, 1.147, and 1.192. The NRC, by incorporating by reference these three RGs, allows nuclear power plant licensees and applicants for standard design certifications, standard design approvals, manufacturing licenses, applicants for OLs, CPs, and COLs under the regulations that govern license certifications, to use the Code Cases listed in these RGs as suitable alternatives to the ASME BPV and OM Codes for the construction, ISI, and IST of nuclear power plant components. This action is consistent with the provisions of the National Technology Transfer and Advancement Act of 1995, Public Law 104–113, which encourages Federal regulatory agencies to consider adopting industry consensus standards as an alternative to *de novo* agency development of standards affecting an industry. This action is also consistent with the NRC's policy of evaluating the latest versions of consensus standards in terms of their suitability for endorsement by regulations or regulatory guides.

The NRC follows a three-step process to determine the acceptability of new and revised Code Cases and the need for regulatory positions on the uses of these Code Cases. This process was employed in the review of the Code Cases in Supplements 1 through 10 to the 2007 Edition of the BPV Code and the 2002 Addenda through the 2006 Addenda of the OM Code. The Code Cases in these supplements are the subject of this final rule. First, the ASME develops Code Cases through a consensus development process, as administered by ANSI, which ensures that the various technical interests (e.g., utility, manufacturing, insurance, regulatory) are represented on standards development committees and that their viewpoints are addressed fairly. This process includes development of a technical justification in support of each new or revised Code Case. The ASME committee meetings are open to the public, and attendees are encouraged to participate. Task groups, working groups, and subgroups report to a standards committee. The standards committee is the decisive consensus committee and ensures that the development process fully complies with the ANSI consensus process. The NRC actively participates through full involvement in discussions and technical debates of the task groups, working groups, subgroups, and standards committee regarding the development of new and revised standards.

Second, the standards committee transmits to its members a first consideration letter ballot requesting comment or approval of new and revised Code Cases. To be approved, Code Cases from the first consideration letter ballot must receive the following: (1) Approval votes from at least two thirds of the eligible consensus committee membership, (2) no disapprovals from the standards committee, and (3) no substantive comments from ASME oversight committees such as the Technical Oversight Management Committee (TOMC). The TOMC's duties, in part, are to oversee various standards committees to ensure technical adequacy and provide recommendations in the development of Codes and standards, as required. The Code Cases that are disapproved or receive substantive comments from the first consideration ballot are reviewed by the working level group(s) responsible for their development to consider the comments received. These Code Cases may be approved by the standards committee on second consideration with an approval vote by at least two thirds of the eligible consensus committee membership, with no more than three disapprovals from the consensus committee.

Third, the NRC reviews new and revised Code Cases to determine their acceptability for incorporation by reference in § 50.55a through the subject RGs. This rulemaking process, when considered together with the ANSI process for developing and approving ASME codes and standards and ASME Code Cases, constitutes the NRC's basis that the Code Cases (with conditions as necessary) provide reasonable assurance of adequate protection to public health and safety.

The NRC reviewed the new and revised Code Cases identified in this final rule and concluded, in accordance with the process previously described, that the Code Cases are technically

adequate (with conditions as necessary) and consistent with current NRC regulations. Therefore, the new and revised Code Cases listed in the subject RGs are approved for use subject to any specified conditions.

A. ASME Code Cases Approved for Unconditional Use

The NRC determined, in accordance with the process previously described for review of ASME Code Cases, that each ASME Code Case listed in Table II is appropriate for incorporation by reference and has been newly added to the RGs

TABLE II—UNCONDITIONALLY APPROVED CODE CASES

Code case No.	Code supplement	Code case title
ASME BPV Code Case, Section III		
N–4–13	5	Special Type 403 Modified Forgings or Bars, Section III, Division 1, Class 1 and CS.
N–570–2	7	Alternative Rules for Linear Piping and Linear Standard Supports for Classes 1, 2, 3, and MC, Section III, Division 1.
N–580–2	4	Use of Alloy 600 With Columbium Added, Section III, Division 1.
N–655–1	2	Use of SA–738, Grade B, for Metal Containment Vessels, Class MC, Section III, Division 1.
N–708	2	Use of JIS G–4303, Grades SUS304, SUS304L, SUS316, and SUS316L, Section III, Division 1.
N–759–2	4	Alternative Rules for Determining Allowable External Pressure and Comprehensive Stress for Cylinders, Cones, Spheres, and Formed Heads, Section III, Division 1.
N–760–2	7	Welding of Valve Plugs to Valve Stem Retainers, Classes 1, 2, and 3, Section III, Division 1.
N–767	4	Use of 21 Cr-6Ni-9Mn (Alloy UNS S21904) Grade GXM–11 (Conforming to SA 182/SA–182M and SA–336/SA–336M), Grade TPXM–11 (Conforming to SA 312/SA–312M) and Type XM–11 (Conforming to SA–666) Material, for Class 1 Construction, Section III, Division 1.
N–774	7	Use of 13Cr-4Ni (Alloy UNS S41500) Grade F6NM Forgings Weighing in Excess of 10,000 lb (4,540 kg) and Otherwise conforming to the Requirements of SA–336/SA–336M for Class 1, 2, and 3 Construction, Section III, Division 1.
N–782	9	Use of Editions, Addenda, and Cases, Section III, Division 1.
N–801	4 (2010 Edition)	Rules for Repair of N-Stamped Class 1, 2, and 3 Components by Organization Other Than the N Certificate Holder That Originally Stamped the Component Being Repaired, Section III, Division 1.
N–802	4 (2010 Edition)	Rules for Repair of Stamped Components by the N Certificate Holder That Originally Stamped the Component, Section III, Division 1.
ASME BPV Code Case, Section XI		
N–532–5	5	Alternative Requirements to Repair and Replacement Documentation Requirements and Inservice Summary Report Preparation and Submission as Required by IWA–4000 and IWA–6000, Section XI, Division 1.
N–716–1	1 (2013 Edition)	Alternative Piping Classification and Examination Requirements, Section XI, Division 1.
N–739–1	1	Alternative Qualification Requirements for Personnel Performing Class CC Concrete and Post-Tensioning System Visual Examinations, Section XI, Division 1.
N–747	9	Reactor Vessel Head-to-Flange Weld Examinations, Section XI, Division 1.
N–762	1	Temper Bead Procedure Qualification Requirements for Repair/Replacement Activities Without Post Weld Heat Treatment, Section XI, Division 1.
N–765	8	Alternative to Inspection Interval Scheduling Requirements of IWA–2430, Section XI, Division 1.
N–769	8	Roll Expansion of Class 1 In-Core Housing Bottom Head Penetrations in BWRs, Section XI, Division 1.
N–773	8	Alternative Qualification Criteria for Eddy Current Examinations of Piping Inside Surfaces, Section XI, Division 1.
ASME OM Code Case		
OMN–6	2006 Addenda	Alternate Rules for Digital Instruments.
OMN–8	2006 Addenda	Alternative Rules for Preservice and Inservice Testing of Power-Operated Valves That Are Used for System Control and Have a Safety Function per OM–10, ISTC–1.1, or ISTA–1100.
OMN–14	2004 Addenda	Alternative Rules for Valve Testing Operations and Maintenance, Appendix I: BWR CRD Rupture Disk Exclusion.
OMN–16	2006 Addenda	Use of a Pump Curve for Testing.

B. ASME Code Cases Approved for Use With Conditions

The NRC has determined that certain Code Cases, as issued by ASME, are generally acceptable for use, but that the alternative requirements specified in those Code Cases must be supplemented to provide an acceptable level of quality and safety. Accordingly, the NRC proposes to impose conditions on the use of these Code Cases to modify, limit or clarify their requirements. For each applicable Code Case, the conditions would specify the additional activities that must be performed, the limits on the activities specified in the Code Case, and/or the supplemental information needed to provide clarity. These ASME Code Cases are included in Table III of the following: RG 1.84 (DG–1230), RG 1.147 (DG–1231), and RG 1.192 (DG–1232). The NRC's evaluation of the Code Cases and the reasons for the NRC's conditions are discussed in the following paragraphs.

TABLE III—CONDITIONALLY APPROVED CODE CASES

Code case No.	Code supplement	Code case title	Conditions
		ASME BPV Code Case, Section III	
N–60–5	Reinstating condition	Material for Core Support Structures, Section III, Division I, Class 1.	The maximum yield strength of strain-hardened austenitic stainless steel shall not exceed 90,000 psi in view of the susceptibility of this material to environmental cracking.
N–208–2	4	Fatigue Analysis for Precipitation Hardening Nickel Alloy Bolting Material to Specification SB–637 N07718 for Class 1 Construction, Section III, Division 1.	(1) In Figure A, the words "No mean stress" shall be implemented with the understanding that it denotes "Maximum mean stress." (2) In Figure A, σ_y shall be implemented with the understanding that it denotes σ_{max}.
N–520–2	4	Alternative Rules for Renewal of Active or Expired N-type Certificates for Plants Not in Active Construction, Section III, Division 1.	The Code Case is considered acceptable with one clarification: an AIA is an Authorized Inspection Agency and the AIA employs the Authorized Nuclear Inspector (ANI).
N–757–1	2	Alternative Rules for Acceptability for Class 2 and 3 Valves (DN 25) and Smaller with Welded and Nonwelded End Connections Other than Flanges, Section III, Division 1.	The design provisions of ASME Section III, Division 1, Appendix XIII, shall not be used for Class 3 valves.
		ASME BPV Code Case, Section XI	
N–508–4	8	Rotation of Serviced Snubbers and Pressure Retaining Items for the Purpose of Testing, Section XI, Division 1.	When Section XI requirements are used to govern the examination and testing of snubbers and the ISI Code of Record is earlier than Section XI, 2006 Addenda, Footnote 1 shall not be applied.
N–561–2	1	Alternative Requirements for Wall Thickness Restoration of Class 2 and High Energy Class 3 Carbon Steel Piping, Section XI, Division 1.	(1) Paragraph 5(b): for repairs performed on a wet surface, the overlay is only acceptable until the next refueling outage. (2) Paragraph 7(c): if the cause of the degradation has not been determined, the repair is only acceptable until the next refueling outage. (3) The area where the weld overlay is to be applied must be examined using ultrasonic methods to demonstrate that no crack-like defects exist. (4) Piping with wall thickness less than the diameter of the electrode shall be depressurized before welding.
N–562–2	1	Alternative Requirements for Wall Thickness Restoration of Class 3 Moderate Energy Carbon Steel Piping, Section XI, Division 1.	(1) Paragraph 5(b): for repairs performed on a wet surface, the overlay is only acceptable until the next refueling outage. (2) Paragraph 7(c): if the cause of the degradation has not been determined, the repair is only acceptable until the next refueling outage. (3) The area where the weld overlay is to be applied must be examined using ultrasonic methods to demonstrate that no crack-like defects exist. (4) Piping with wall thickness less than the diameter of the electrode shall be depressurized before welding.
N–597–2	Previously approved Code Case. NRC had proposed one new condition in response to public comment on last rulemaking.	Requirements for Analytical Evaluation of Pipe Wall Thinning, Section XI, Division 1.	New condition (6): The evaluation criteria in Code Case N–513–2 may be applied to Code Case N–597–2 for temporary acceptance of wall thinning (until the next refueling outage) for moderate-energy Class 2 and 3 piping. Moderate-energy piping is defined as Class 2 and 3 piping whose maximum operating temperature does not exceed 200 °F (93 °C) and whose maximum operating pressure does not exceed 275 psig (1.9MPa). Code Case N-597–2 shall not be used to evaluate through-wall leakage conditions.
N–606–1	Public comment received on previously approved rule requesting revision to condition. Condition was revised.	Similar and Dissimilar Metal Welding Using Ambient Temperature Machine GTAW Temper Bead Technique for BWR CRD Housing/Stub Tube Repairs, Section XI, Division 1.	Prior to welding, an examination or verification must be performed to ensure proper preparation of the base metal, and that the surface is properly contoured so that an acceptable weld can be produced. This verification is to be required in the welding procedures.
N–619	Responding to comment on previously approved Code Case.	Alternative Requirements for Nozzle Inner Radius Inspections for Class 1 Pressurizer and Steam Generator Nozzles, Section XI, Division 1.	In lieu of a UT examination, licensees may perform a VT–1 examination in accordance with the code of record for the Inservice Inspection Program utilizing the allowable flaw length criteria of Table IWB–3512–1 with limiting assumptions on the flaw aspect ratio.
N–648–1	Responding to comment on previously approved Code Case.	Alternative Requirements for Inner Radius Inspections for Class 1 Reactor Vessel Nozzles, Section XI, Division 1.	In lieu of a UT examination, licensees may perform a VT–1 examination in accordance with the code of record for the Inservice Inspection Program utilizing the allowable flaw length criteria of Table IWB–3512–1 with limiting assumptions on the flaw aspect ratio.
N–661–2	1	Alternative Requirements for Wall Thickness Restoration of Classes 2 and 3 Carbon Steel Piping for Raw Water Service, Section XI, Division 1.	(1) Paragraph 5(b): for repairs performed on a wet surface, the overlay is only acceptable until the next refueling outage. (2) Paragraph 7(c): if the cause of the degradation has not been determined, the repair is only acceptable until the next refueling outage. (3) The area where the weld overlay is to be applied must be examined using ultrasonic methods to demonstrate that no crack-like defects exist. (4) Piping with wall thickness less than the diameter of the electrode shall be depressurized before welding.

TABLE III—CONDITIONALLY APPROVED CODE CASES—Continued

Code case No.	Code supplement	Code case title	Conditions
N–702	Responding to comment on previously approved Code Case.	Alternative Requirements for Boiling Water Reactor (BWR) Nozzle Inner Radius and Nozzle-to-Shell Welds, Section XI, Division 1.	The technical basis supporting the implementation of this Code Case is addressed by BWRVIP–108: BWR Vessel and Internals Project, ''Technical Basis for the Reduction of Inspection Requirements for the Boiling Water Reactor Nozzle-to-Vessel Shell Welds and Nozzle Blend Radii,'' EPRI Technical Report 1003557, October 2002 (ADAMS Accession No. ML023330203); and BWRVIP–241: BWR Vessels and Internals Project, ''Probabilistic Fracture Mechanics Evaluation for the Boiling Water Reactor Nozzle-to-Vessel Shell Welds and Nozzle Blend Radii,'' EPRI Technical Report 1021005, October 2010 (ADAMS Accession No. ML11119A041). The applicability of Code Case N–702 must be shown by demonstrating that the criteria in Section 5.0 of NRC Safety Evaluation regarding BWRVIP–108 dated December 18, 2007 (ADAMS Accession No. ML073600374), or Section 5.0 of NRC Safety Evaluation regarding BWRVIP–241 dated April 19, 2013 (ADAMS Accession No. ML13071A240), are met. The evaluation demonstrating the applicability of the Code Case shall be reviewed and approved by the NRC prior to the application of the Code Case.
ASME OM Code Cases			
OMN–1	2006 Addenda	Alternative Rules for Preservice and Inservice Testing of Active Electric Motor-Operated Valve Assemblies in Light-Water Reactor Power Plants.	Licensees may use Code Case OMN–1, ''Alternative Rules for Preservice and Inservice Testing of Certain Electric Motor-Operated Valve Assemblies in Light-Water Reactor Power Plants,'' in lieu of the provisions for stroke-time testing in Subsection ISTC of the 1995 Edition up to and including the 2006 Addenda of the ASME OM Code when applied in conjunction with the provisions for leakage rate testing in, as applicable, ISTC 4.3 (1995 Edition with the 1996 and 1997 Addenda) and ISTC–3600 (1998 Edition through the 2006 Addenda). In addition, licensees who continue to implement Section XI of the ASME BPV Code as their Code of Record may use OMN–1 in lieu of the provisions for stroke-time testing specified in Paragraph 4.2.1 of ASME/ANSI OM Part 10 as required by 10 CFR 50.55a(b)(2)(vii) subject to the conditions in this regulatory guide. Licensees who choose to apply OMN–1 must apply all its provisions. (1) The adequacy of the diagnostic test interval for each motor-operated valve (MOV) must be evaluated and adjusted as necessary, but not later than 5 years or three refueling outages (whichever is longer) from initial implementation of OMN–1. (2) When extending exercise test intervals for high risk MOVs beyond a quarterly frequency, licensees must ensure that the potential increase in Core Damage Frequency (CDF) and risk associated with the extension is small and consistent with the intent of the Commission's Safety Goal Policy Statement. (3) When applying risk insights as part of the implementation of OMN–1, licensees must categorize MOVs according to their safety significance using the methodology described in Code Case OMN–3, ''Requirements for Safety Significance Categorization of Components Using Risk Insights for Inservice Testing of LWR Power Plants,'' with the conditions discussed in this regulatory guide or use other MOV risk ranking methodologies accepted by the NRC on a plant specific or industry-wide basis with the conditions in the applicable safety evaluations. Note 1: As indicated at 64 FR 51370–51386, licensees are cautioned that, when implementing OMN 1, the benefits of performing a particular test should be balanced against the potential adverse effects placed on the valves or systems caused by this testing. Note 2: RG 1.192, Rev. 0, conditionally accepted Code Case OMN–11 for use in conjunction with Code Case OMN–1. The provisions of Code Case OMN–11 were acceptably incorporated into Code Case OMN–1, 2006 Addenda, including the conditions in the RG on the use of Code Case OMN–11. Code Case OMN–11, 2006 Addenda, is therefore no longer appropriate for use. Accordingly, applicants and licensees choosing to perform risk-informed testing of motor-operated valves (MOVs) as allowed by RG 1.192 must do so in accordance with the applicable provisions of Code Case OMN–1 together with the conditions specified for its use in Table 2 of this regulatory guide. In accordance with 10 CFR 50.55a(b)(6)(ii), applicants and licensees that have implemented versions of Code Cases OMN–1 and OMN–11 earlier than the 2006 Addenda (i.e., with the conditions as specified in Table 3 of this RG) may continue to use those versions through the end of the current IST interval. If that applicant or licensee plans to continue to implement a risk-informed IST program for its MOVs in the subsequent IST interval, then OMN–1, 2006 Addenda, with the conditions specified in Table 2 of this RG will need to be implemented.

TABLE III—CONDITIONALLY APPROVED CODE CASES—Continued

Code case No.	Code supplement	Code case title	Conditions
OMN–3	2004 Edition	Requirements for Safety Significance Categorization of Components Using Risk Insights for Inservice Testing of LWR Power Plants.	In addition to those components identified in ASME IST Program Plan, implementation of Section 1, ''Applicability,'' of the Code Case must include within the scope of a licensee's risk-informed IST Program non-ASME Code Components categorized as high safety significant components (HSSCs) that might not currently be included in the IST Program Plan. (2) The decision criteria discussed in Section 4.4.1, ''Decision Criteria,'' of the Code Case for evaluating the acceptability of aggregate risk effects (i.e., for Core Damage Frequency [CDF] and Large Early Release Frequency [LERF]) must be consistent with the guidance provided in Regulatory Guide 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis.'' (3) Section 4.4.4, ''Defense in Depth,'' of the Code Case must be consistent with the guidance contained in Sections 2.2.1, ''Defense-in-Depth Evaluation''; and 2.2.2, ''Safety Margin Evaluation,'' of Regulatory Guide 1.175, ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Inservice Testing.'' (4) Implementation of Sections 4.5, ''Inservice Testing Program''; and 4.6, ''Performance Monitoring,'' of the Code Case must be consistent with the guidance pertaining to inservice testing of pumps and valves provided in Section 3.2, ''Program Implementation''; and Section 3.3, ''Performance Monitoring,'' of Regulatory Guide 1.175. Testing and performance monitoring of individual components must be performed as specified in the risk-informed components Code Cases (e.g., OMN–1, OMN–4, OMN–7, and OMN–12, as modified by the conditions discussed in this regulatory guide). (5) Implementation of Section 3.2, ''Plant Specific PRA,'' of the Code Case must be consistent with the guidance that the Owner is responsible for demonstrating and justifying the technical adequacy of the probabilistic risk assessment (PRA) analyses used as the basis to perform component risk ranking and for estimating the aggregate risk impact. Regulatory Guide 1.200, ''An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-Informed Activities,'' provides guidance for determining the technical adequacy of the PRA used in a risk-informed regulatory activity. Regulatory Guide 1.201, ''Guidelines for Categorizing Structures, Systems, and Components in Nuclear Power Plants According to their Safety Significance,'' describes one acceptable method to categorize the safety significance of an active component, including methods to use when a plant-specific PRA that meets the appropriate Regulatory Guide 1.200 capability for specific hazard group(s) (e.g., seismic and fire) is not available. (6) Section 4.2.4, ''Reconciliation,'' paragraph (b), is not endorsed. The expert panel may not classify components that are ranked HSSC by the results of a qualitative or quantitative PRA evaluation (excluding the sensitivity studies) or the defense-in-depth assessment to low safety significant component (LSSC). (7) Implementation of Section 3.3, ''Living PRA,'' must be consistent with the following: (1) To account for potential changes in failure rates and other changes that could affect the PRA, changes to the plant must be reviewed, and, as appropriate, the PRA updated; (2) When the PRA is updated, the categorization of structures, systems, and components must be reviewed and changed if necessary to remain consistent with the categorization process; and (3) The review of plant changes must be performed in a timely manner and must be performed once every two refueling outages or as required by 10 CFR 50.71(h)(2) for combined license holders. Note 1: The Code Case methodology for risk ranking uses two categories of safety significance. The NRC staff has determined that this is acceptable for ranking all component types. However, the NRC staff has accepted other methodologies for risk ranking MOVs, with certain conditions that use three categories of safety significance.
OMN–4	2004 Edition	Requirements for Risk Insights for Inservice Testing of Check Valves at LWR Power Plants.	(1) Valve opening and closing functions must be demonstrated when flow testing or examination methods (nonintrusive, or disassembly and inspection) are used. (2) The initial interval for tests and associated examinations may not exceed two fuel cycles or 3 years, whichever is longer; any extension of this interval may not exceed one fuel cycle per extension with the maximum interval not to exceed 10 years. Trending and evaluation of existing data must be used to reduce or extend the time interval between tests. (3) If the Appendix II condition monitoring program is discontinued, the requirements of ISTC 4.5.1, ''Exercising Test Frequency,'' through ISTC 4.5.4, ''Valve Obturator Movement,'' (1996 and 1997 Addenda) or ISTC 3510, 3520, 3540, and 5221 (1998 Edition with the 1999 and 2000 Addenda), as applicable, must be implemented. Note 1: The conditions with respect to allowable methodologies for OMN–3 risk ranking specified for the use of OMN–1 also apply to OMN–4.
OMN–9	2004 Edition	Use of a Pump Curve for Testing	(1) When a reference curve may have been affected by repair, replacement, or routine servicing of a pump, a new reference curve must be determined, or an existing reference curve must be reconfirmed, in accordance with Section 3 of this Code Case. (2) If it is necessary or desirable, for some reason other than that stated in Section 4 of this Code Case, to establish an additional reference curve or set of curves, these new curves must be determined in accordance with Section 3.

TABLE III—CONDITIONALLY APPROVED CODE CASES—Continued

Code case No.	Code supplement	Code case title	Conditions
OMN–12	2004 Edition	Alternative Requirements for Inservice Testing Using Risk Insights for Pneumatically and Hydraulically Operated Valve Assemblies in Light-Water Reactor Power Plants (OM-Code 1998, Subsection ISTC).	(1) Paragraph 4.2, ''Inservice Test Requirements,'' of OMN–12 specifies inservice test requirements for pneumatically and hydraulically operated valve assemblies categorized as high safety significant within the scope of the Code Case. The inservice testing program must include a mix of static and dynamic valve assembly performance testing. The mix of valve assembly performance testing may be altered when justified by an engineering evaluation of test data. (2) Paragraph 4.2.2.3 of OMN 12 specifies the periodic test requirements for pneumatically and hydraulically operated valve assemblies categorized as high safety significant within the scope of the code case. The adequacy of the diagnostic test interval for each high safety significant valve assembly must be evaluated and adjusted as necessary, but not later than 5 years or three refueling outages (whichever is longer) from initial implementation of OMN–12. (3) Paragraph 4.2.3, ''Periodic Valve Assembly Exercising,'' of OMN 12 specifies periodic exercising for pneumatically and hydraulically operated valve assemblies categorized as high safety significant within the scope of the code case. Consistent with the requirement in OMN 3 to evaluate the aggregate change in risk associated with changes in test strategies, when extending exercise test intervals for high safety significant valve assemblies beyond a quarterly frequency, the potential increase in Core Damage Frequency (CDF) and risk associated with the extension must be evaluated and determined to be small and consistent with the intent of the Commission's Safety Goal Policy Statement. (4) Paragraph 4.4.1, ''Acceptance Criteria,'' of OMN 12 specifies that acceptance criteria must be established for the analysis of test data for pneumatically and hydraulically operated valve assemblies categorized as high safety significant within the scope of the code case. When establishing these acceptance criteria, the potential degradation rate and available capability margin for each valve assembly must be evaluated and determined to provide assurance that the valve assemblies are capable of performing their design basis functions until the next scheduled test. (5) Paragraph 5, ''Low Safety Significant Valve Assemblies,'' of OMN 12 specifies that the purpose of its provisions is to provide a high degree of confidence that pneumatically and hydraulically operated valve assemblies categorized as low safety significant within the scope of the code case will perform their intended safety function if called upon. The licensee must have reasonable confidence that low safety significant valve assemblies remain capable of performing their intended design-basis safety functions until the next scheduled test. The test and evaluation methods may be less rigorous than those applied to high safety significant valve assemblies. (6) Paragraph 5.1, ''Set Points and/or Critical Parameters,'' of OMN 12 specifies requirements and guidance for establishing set points and critical parameters of pneumatically and hydraulically operated valve assemblies categorized as low safety significant within the scope of the code case. Setpoints for these valve assemblies must be based on direct dynamic test information, a test based methodology, or grouping with dynamically tested valves, and documented according to Paragraph 5.1.4. The setpoint justification methods may be less rigorous than provided for high risk significant valve assemblies. (7) Paragraph 5.4, ''Evaluations,'' of OMN–12, specifies evaluations to be performed of pneumatically and hydraulically operated valve assemblies categorized as low safety significant within the scope of the Code Case. Initial and periodic diagnostic testing must be performed to establish and verify the setpoints of these valve assemblies to ensure that they are capable of performing their design-basis safety functions. Methods for testing and establishing test frequencies may be less rigorous than applied to high risk significant valve assemblies. (8) Paragraph 5.6, ''Corrective Action,'' of OMN–12 specifies that corrective action must be initiated if the parameters monitored and evaluated for pneumatically and hydraulically operated valve assemblies categorized as low safety significant within the scope of the code case do not meet the established criteria. Further, if the valve assembly does not satisfy its acceptance criteria, the operability of the valve assembly must be evaluated. Note 1: Licensees are cautioned that, when implementing OMN–12, the benefits of performing a particular test should be balanced against the potential adverse effects placed on the valves or systems caused by this testing. Note 2: Paragraph 3.1 of OMN–12 states that ''Valve assemblies shall be classified as either high safety significant or low safety significant in accordance with Code Case OMN–3.'' This note as well as Note 2 to OMN–4 have been added to ensure the consistent consideration of risk insights.

C. ASME Code Cases Not Approved for Use

The ASME Code Cases which are currently issued by ASME but not approved for generic use by the NRC are listed in RG 1.193, ''ASME Code Cases Not Approved for Use.'' The Code Cases which are not approved for use include Code Cases on high-temperature gas cooled reactors; certain requirements in Section III, Division 2, not endorsed by the NRC, liquid metal; and submerged spent fuel waste casks. Regulatory Guide 1.193 is not incorporated by reference into § 50.55a. Regulatory Guide 1.193 is prepared by the NRC as a resource for stakeholders, allowing

them to easily identify Code Cases which the NRC has not approved for use as a generic matter. Listing of a Code Case in RG 1.193 does not preclude an application or licensee for seeking individual, case-by-case NRC approval to use a listed Code Case.

V. Petition for Rulemaking (PRM–50–89)

On December 14, 2007, Mr. Raymond West (the petitioner) submitted a PRM requesting the NRC to amend § 50.55a to allow consideration of alternatives to the NRC-approved ASME BPV and OM Code Cases. The petitioner submitted an amended petition on December 19, 2007 (ADAMS Accession No. ML073600974). The petition was docketed by the NRC as PRM–50–89. The petitioner requested that the regulations be amended to provide applicants and licensees a process for requesting NRC approval of changes or modifications to ASME Code Cases that are listed in the relevant NRC-approved RGs cited in the current regulations. The petitioner stated that the current requirements do not allow changes or modifications to be proposed as alternatives to NRC-approved ASME Code Cases, and asserted that such changes or modifications should be allowed as alternatives to NRC Code Cases. Overall, the petitioner requested that the regulations be amended to allow applicants and licensees to request authorization of NRC-approved Code Cases with proposed modifications directly through § 50.55a(a)(3).

The NRC determined that the issues raised in this PRM should be considered in the NRC's rulemaking process, and the NRC published a FRN with this determination on April 22, 2009 (74 FR 18303).

The NRC believes that Code Cases often provide alternatives that have technical merit and, in many instances, are incorporated into future ASME Code editions. The ASME Code Case process itself constitutes a method of how an applicant or licensee can seek to obtain ASME approval for a variation of a previously-approved Code provision. Section 50.55a(a)(3) currently provides specific approaches for obtaining NRC authorization of alternatives to ASME Code provisions. Inasmuch as ASME Code Cases are analogous to ASME Code provisions, it is not unreasonable to provide an analogous regulatory approach for obtaining NRC authorization of alternatives to ASME Code Cases. Therefore, the NRC has included language in § 50.55a(z) (previously § 50.55a(a)(3)) that would allow applicants and licensees to request authorization of alternatives for changes to conditions on NRC-approved ASME Code Cases in current paragraphs (b)(4), (b)(5), and (b)(6) of § 50.55a. In addition, the NRC is extending the scope of the petitioner's request for allowing alternatives to NRC-approved Code Case conditions to allow applicants and licensees to request authorization of alternatives for changes to conditions on Section III and XI of the ASME BPV Code and OM Code in current paragraphs (b)(1), (b)(2), and (b)(3).

In the final rule, the requirements in former paragraph (a)(3) have been moved to newly created paragraph (z), making room in this section for the listing of all standards to be incorporated by reference in paragraph (a). The reasons for this change is discussed in the **SUPPLEMENTARY INFORMATION** in Section VI. Changes addressing the Office of the Federal Register's Guidelines on Incorporation by Reference.

This final rule resolves and represents the NRC's final action on PRM–50–89.

VI. Changes Addressing the Office of the Federal Register's Guidelines on Incorporation by Reference

This final rule includes changes to §§ 50.54, 50.55, and 50.55a. These changes were made in accordance with the guidance for incorporation by reference of multiple standards that are included in Chapter 6 of the OFR's ''**Federal Register** Document Drafting Handbook,'' January 2011 Revision. This latest revision of the OFR's guidance provides several options for incorporating by reference multiple standards into regulations.

The NRC has incorporated by reference, in a single paragraph, the multiple standards mentioned in § 50.55a. For the least disruption to the existing structure of the section, the NRC incorporated by reference the multiple standards into § 50.55a(a), the first paragraph of the section. Each national consensus standard that is being incorporated by reference in § 50.55a has been listed separately. Accordingly, the regulatory language of §§ 50.54, 50.55, and 50.55a has been reorganized by moving existing paragraphs, creating new paragraphs, and revising introductory and regulatory texts.

The NRC has made conforming changes to references throughout § 50.55a to reflect this reorganization. A detailed discussion of the affected paragraphs, other than the aforementioned reference changes, is provided in Section VIII, ''Paragraph-by-Paragraph Discussion,'' of this document. The regulatory text of § 50.55a has been set out in its entirety for the convenience of the reader. The NRC staff has also developed reader aids to help users understand these changes (see Section VII of this document).

VII. Addition of Headings to Paragraphs

The NRC has added headings (explanatory titles) to paragraphs and all lower-level subparagraphs of § 50.55a. These headings are intended to enhance the readers' ability to identify the paragraphs (e.g., paragraphs (a), (b), (c)) and subparagraphs with the same subject matter. The NRC evaluated a range of solutions, including the creation of new regulations and relocation of existing requirements from § 50.55a to the new regulations.

Some alternatives the NRC considered were a new regulation adjacent to § 50.55a (e.g., §§ 50.55b, 50.55c, 50.55d), a new subpart containing a new series of regulations at the end of 10 CFR part 50 (e.g., subpart B beginning at § 50.200, and continuing with §§ 50.201, 50.202, 50.203), or a new part (designated for Codes and standards) containing a new series of regulations addressing Codes and standards approved for incorporation by reference by the OFR. The relocation of each existing requirement to a new regulation (or set of regulations) would follow a set of organizing principles established by the NRC after consideration of public views.

Upon consideration of these alternatives, the NRC decided that these alternatives should not be adopted—at least not at this time without further public input—and instead that the NRC should develop and adopt headings for paragraphs and subparagraphs. The primary reason for the NRC's decision is external stakeholders' objections to a previous attempt by the NRC to re-designate paragraphs in § 50.55a (75 FR 24324; May 4, 2010). As the NRC understands it, many nuclear power plant licensees' procedures reference specific paragraphs and subparagraphs of § 50.55a. It would require substantial rewriting of these procedures and documents to correct the references to the old (superseded) section, paragraphs and subparagraphs. In addition, currently-approved design certification rules may require conforming amendments to be made to correct references to ASME Code provisions on design (and possibly ISI and IST). As mentioned earlier in the response to Comment No. 1, the NRC received several public comments but deferred their consideration to a potential future rulemaking effort for reorganizing the entire § 50.55a with public input. The current reorganization of this

rulemaking is based upon two major issues- consideration of the OFR's revised guidelines for incorporating by reference consensus standards in regulations and addition of headings (explanatory titles) to paragraphs and lower-level subparagraphs of § 50.55a as reader aids.

A. NRC's Convention for Headings and Subheadings

The NRC has added headings to all first, second, third, fourth, and some fifth-level paragraphs for certain sections of § 50.55a to add clarity and a user-friendly method for following sublevel contents within a regulation. The heading for a fourth-level follows the same convention, but may designate the provision number only. Fifth-level paragraphs are only for newly incorporated Code Cases. Each first-level paragraph (designated using letters [e.g., (a), (b), (c)]) have a heading that concisely describes the general subject matter addressed in that paragraph. Each second-level paragraph (designated using numbers [e.g., (1), (2), (3)] have a heading comprised of a summary of the first-level paragraph's heading and a semicolon (''; ''), followed by a concise description of the subject matter addressed in the second paragraph. The heading for a third-level paragraph follows the same convention (i.e., a heading comprised of a summary level of the higher-level paragraph's title and a semicolon, followed by a concise description of the subject matter addressed in that subparagraph). The heading for a fourth-level paragraph follows the same convention, but designate the provision number only. The fifth-level paragraph is applied to only paragraph (a) for incorporation by reference of approved editions and addenda to the ASME BPV and OM Codes.

B. Reader Aids

The NRC staff has developed a table showing the structure of § 50.55a. This table, ''Final Reorganization of Paragraphs and Subparagraphs in 10 CFR 50.55a, 'Codes and standards''' (ADAMS Accession No. ML14015A191), is available in a separate document and outlines the section showing all paragraph designations, including the new paragraph headings. The NRC staff has also developed cross-reference tables showing the current designations for §§ 50.54, 50.55, and 50.55a regulations and the new designations for these sections. These tables contain the new headings and a description of each change and are available in separate documents (ADAMS Accession No. ML14211A050- package contains two tables).

VIII. Paragraph-by-Paragraph Discussion

Overall Considerations on the Use of ASME Code Cases

This rulemaking has amended § 50.55a to incorporate by reference RG 1.84, Revision 36, which supersedes Revision 35; RG 1.147, Revision 17, which supersedes Revision 16; and RG 1.192, Revision 1, which supersedes Revision 0. The following general guidance applies to the use of the ASME Code Cases approved in the latest versions of the RGs that are incorporated by reference into § 50.55a as part of this rulemaking.

The approval of a Code Case in the NRC RGs constitutes acceptance of its technical position for applications that are not precluded by regulatory or other requirements or by the recommendations in these or other RGs. The applicant and/or licensee are responsible for ensuring that use of the Code Case does not conflict with regulatory requirements or licensee commitments. The Code Cases listed in the RGs are acceptable for use within the limits specified in the Code Cases. If the RG states an NRC condition on the use of a Code Case, then the NRC condition supplements and does not supersede any condition(s) specified in the Code Case, unless otherwise stated in the NRC condition.

The ASME Code Cases may be revised for many reasons (e.g., to incorporate operational examination and testing experience and to update material requirements based on research results). On occasion, an inaccuracy in an equation is discovered or an examination, as practiced, is found not to be adequate to detect a newly discovered degradation mechanism. Hence, when an applicant or a licensee initially implements a Code Case, § 50.55a requires that the applicant or the licensee implement the most recent version of that Code Case as listed in the RGs incorporated by reference. Code Cases superseded by revision are no longer acceptable for new applications unless otherwise indicated.

Section III of the ASME BPV Code applies only to new construction (i.e., the edition and addenda to be used in the construction of a plant are selected based on the date of the construction permit and are not changed thereafter, except voluntarily by the applicant or the licensee). Hence, if a Section III Code Case is implemented by an applicant or a licensee and a later version of the Code Case is incorporated by reference into § 50.55a and listed in the RGs, the applicant or the licensee may use either version of the Code Case (subject, however, to whatever change requirements apply to its licensing basis (e.g., § 50.59)).

A licensee's ISI and IST programs must be updated every 10 years to the latest edition and addenda of Section XI and the OM Code, respectively, that were incorporated by reference into § 50.55a and in effect 12 months prior to the start of the next inspection and testing interval. Licensees who were using a Code Case prior to the effective date of its revision may continue to use the previous version for the remainder of the 120-month ISI or IST interval. This relieves licensees of the burden of having to update their ISI or IST program each time a Code Case is revised by the ASME and approved for use by the NRC. Code Cases apply to specific editions and addenda, and Code Cases may be revised if they are no longer accurate or adequate, so licensees choosing to continue using a Code Case during the subsequent ISI or IST interval must implement the latest version incorporated by reference into § 50.55a and listed in the RGs.

The ASME may annul Code Cases that are no longer required, are determined to be inaccurate or inadequate, or have been incorporated into the ASME BPV or OM Codes. If an applicant or a licensee applied a Code Case before it was listed as annulled, the applicant or the licensee may continue to use the Code Case until the applicant or the licensee updates its Construction Code of Record (in the case of an applicant, updates its application) or until the licensee's 120 month ISI or IST update interval expires, after which the continued use of the Code Case is prohibited unless NRC authorization is given under the current § 50.55a(a)(3). If a Code Case is incorporated by reference into § 50.55a and later annulled by the ASME because experience has shown that the design analysis, construction method, examination method, or testing method is inadequate; the NRC will amend § 50.55a and the relevant RG to remove the approval of the annulled Code Case. Applicants and licensees should not begin to implement such annulled Code Cases in advance of the rulemaking.

A Code Case may be revised, for example, to incorporate user experience. The older or superseded version of the Code Case cannot be applied by the licensee or applicant for the first time.

If an applicant or a licensee applied a Code Case before it was listed as superseded, the applicant or the licensee may continue to use the Code

Case until the applicant or the licensee updates its Construction Code of Record (in the case of an applicant, updates its application) or until the licensee's 120-month ISI or IST update interval expires, after which the continued use of the Code Case is prohibited unless NRC authorization is given under new § 50.55a(z). If a Code Case is incorporated by reference into § 50.55a and later a revised version is issued by the ASME because experience has shown that the design analysis, construction method, examination method, or testing method is inadequate; the NRC will amend § 50.55a and the relevant RG to remove the approval of the superseded Code Case. Applicants and licensees should not begin to implement such superseded Code Cases in advance of the rulemaking.

Incorporation by Reference

The final rule includes changes to §§ 50.54, 50.55, and 50.55a. This change brings the NRC's requirements into compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Section 50.54

In § 50.54, the introductory statement has been revised to include a reference to § 50.55a. This revision clarifies that nuclear power plant licensees, as described in the introductory paragraph of § 50.54, also are subject to the applicable requirements delineated in § 50.55a. In addition, the NRC revised the introductory text of this section and added and reserved paragraph (ii), and added paragraph (jj) to include a condition of every license. This requirement is currently contained in § 50.55a(a)(1), and no change to the requirement is intended by the transfer of this requirement from § 50.55a(a)(1) to § 50.54(jj), except for clarification of its applicability.

Section 50.55

In § 50.55, the introductory text has been revised to include references to existing § 50.55a, and paragraphs (g) and (h) have been added and reserved for future use. Further, existing § 50.55a(a)(1) has been moved to a newly created § 50.55(i) enabling the removal of the current regulation from the current 50.55a(a)(1). No change to the requirement is intended by this transfer, except for clarification of its applicability. The introductory text of § 50.55 has been revised to maintain the existing applicability of the requirement in the newly created § 50.55(i) to construction permits for utilization facilities.

Section 50.55a

The introductory text to § 50.55a was relocated to several other locations. There is no introductory text to § 50.55a in the new rule. The first sentence in the previous introductory text was relocated to the first sentence in § 50.55. The remaining sentences were relocated to § 50.55a(b) (second sentence), § 50.55a(b)(1) (first sentence), § 50.55a(b)(4) (first sentence), § 50.55a(c) (second sentence), § 50.55a(d) (second sentence), § 50.55a(e) (second sentence), § 50.55a(f) (second and third sentences), § 50.55a(g) (second and third sentences), and § 50.55a(h) (second sentence).

In addition to moving existing paragraphs, creating new paragraphs, and revising introductory and regulatory texts, the footnotes in § 50.55a have been reorganized to appear in sequential order. The NRC also has reserved footnote numbers so that the NRC may add a footnote in a future rulemaking without having to renumber the existing footnotes.

Paragraph (a): A new paragraph (a) has been created in § 50.55a to incorporate by reference the multiple standards currently identified in existing § 50.55a. The heading has been revised to read ''Documents approved for incorporation by reference.''

Paragraph (a)(1): This paragraph, ''*American Society of Mechanical Engineers (ASME),*'' has been added to group all ASME sections.

Paragraph (a)(1)(i): This paragraph, ''*ASME Boiler and Pressure Vessel Code, Section III,*'' has been added to discuss the availability of standards referenced in current paragraph (b)(1).

Paragraph (a)(1)(i)(A): This paragraph, ''*Rules for Construction of Nuclear Vessels,*'' has been added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1).

Paragraph (a)(1)(i)(B): This paragraph, ''*Rules for Construction of Nuclear Power Plant Components,*'' has been added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1).

Paragraph (a)(1)(i)(C): This paragraph, ''*Division 1 Rules for Construction of Nuclear Power Plant Components,*'' has been added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1).

Paragraph (a)(1)(i)(D): This paragraph, ''*Rules for Construction of Nuclear Power Plant Components—Division 1,*'' has been added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1).

Paragraph (a)(1)(i)(E): This paragraph, ''*Rules for Construction of Nuclear Facility Components—Division 1,*'' has been added to group all the individual standards referenced regarding the subject matter included in current paragraph (b)(1).

Paragraph (a)(1)(ii): This paragraph, ''ASME Boiler and Pressure Vessel Code, Section XI,'' has been added to discuss the availability of standards referenced in current paragraph (b)(2).

Paragraph (a)(1)(ii)(A): This paragraph, ''*Rules for Inservice Inspection of Nuclear Reactor Coolant Systems,*'' has been added to discuss the availability of individual standards referenced regarding the subject matter included in current paragraph (b)(2).

Paragraph (a)(1)(ii)(B): This paragraph, ''*Rules for Inservice Inspection of Nuclear Power Plant Components,*'' has been added to discuss the availability of individual standards referenced regarding the subject matter included in current paragraph (b)(2).

Paragraph (a)(1)(ii)(C): This paragraph, ''*Rules for Inservice Inspection of Nuclear Power Plant Components—Division 1,*'' has been added to discuss the availability of individual standards referenced regarding the subject matter included in current paragraph (b)(2).

Paragraph (a)(1)(iii): This paragraph, ''*ASME Code Cases: Nuclear Components,*'' has been added to discuss the newly approved Code Cases referenced regarding the subject matter in current paragraph (b).

Paragraph (a)(1)(iii)(A): This paragraph, ''*ASME Code Case N–722–1,*'' has been added to discuss the newly approved Code Case referenced regarding the subject matter in current paragraph (b).

Paragraph (a)(1)(iii)(B): This paragraph, ''*ASME Code Case N–729–1,*'' has been added to discuss the newly approved Code Case referenced regarding the subject matter in current paragraph (b).

Paragraph (a)(1)(iii)(C): This paragraph, ''*ASME Code Case N–770–1,*'' has been added to discuss the newly approved Code Case referenced regarding the subject matter in current paragraph (b).

Paragraph (a)(1)(iv): This paragraph, ''*ASME Operation and Maintenance Code,*'' has been added to group all the individual standards referenced in current paragraph (b).

Paragraph (a)(1)(iv)(A): This paragraph, ''*Code for Operation and*

Maintenance of Nuclear Power Plants,'' has been added to group all the individual standards referenced in current paragraph (b).

Paragraph (a)(1)(iv)(B): This paragraph has been added and reserved for future use.

Paragraph (a)(2): This paragraph, ''*Institute of Electrical and Electronics Engineers (IEEE) Service Center,''* has been added to list all IEEE sections.

Paragraph (a)(2)(i): This paragraph, ''*IEEE Standard 279—1971,''* has been added to discuss the availability of standards referenced in current paragraph (h)(2).

Paragraph (a)(2)(ii): This paragraph, ''*IEEE Standard 603—1991,''* has been added to discuss the availability of the standard referenced in current paragraphs (h)(2) and (h)(3).

Paragraph (a)(2)(iii): This paragraph, ''*IEEE Standard 603—1991 correction sheet,''* has been added to discuss the availability of the standard referenced in current paragraphs (h)(2) and (h)(3).

Paragraph (a)(3): This paragraph, *''U.S. Nuclear Regulatory Commission (NRC) Reproduction and Distribution Services Section,''* lists all RGs being incorporated by reference.

Paragraph (a)(3)(i): This paragraph, ''*NRC Regulatory Guide 1.84, Revision 36,''* has been added to discuss the availability of the standard.

Paragraph (a)(3)(ii): This paragraph, ''*NRC Regulatory Guide 1.147, Revision 17,''* has been added to discuss the availability of the standard.

Paragraph (a)(3)(iii): This paragraph, ''*NRC Regulatory Guide 1.192, Revision 1,''* has been added to discuss the availability of the standard.

Paragraph (b): The paragraph heading has been revised to ''*Use and conditions on the use of standards.''* The contents have been moved, in part, to § 50.55a(a) for compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations.

Paragraphs (b)(4): Reference to the revision number for RG 1.84 has been changed from ''Revision 35'' to ''Revision 36.''

Paragraphs (b)(5): Reference to the revision number for RG 1.147 has been changed from ''Revision 16'' to ''Revision 17.''

Paragraphs (b)(6): Reference to the revision number for RG 1.192 has been changed from ''Revision 0'' to ''Revision 1.''

Paragraph (c): Introductory text has been added to the existing paragraph (c). Explanatory headings have been added for subparagraphs.

Paragraph (d): The new paragraph adds introductory text to ''*Quality Group B components,''* as part of the NRC initiative of adding headings and providing clarity. Explanatory headings have been added for subparagraphs.

Paragraph (e): The new paragraph adds introductory text to ''*Quality Group C components,''* as part of the NRC initiative of adding headings and providing clarity. Explanatory headings have been added for subparagraphs.

Paragraph (f): Introductory text has been revised and expanded in ''*Inservice testing requirements,''* as part of the NRC initiative of adding headings and providing clarity. Explanatory headings have been added for subparagraphs.

Paragraph (g): Introductory text has been revised and expanded in ''*Inservice inspection requirements,''* as part of the NRC initiative of adding headings and providing clarity. Explanatory headings have been added for subparagraphs.

Paragraphs (b)(5), (f)(2), (f)(3)(iii)(A), (f)(3)(iv)(A), (f)(4)(ii), (g)(2), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(4)(ii): Reference to the revision number for RG 1.147 has been changed from ''Revision 16'' to ''Revision 17.''

Paragraph (h)(1): This paragraph has been designated as reserved because the informational content from current (h)(1) has been moved to paragraph (a)(2).

Paragraphs (i)–(y): These paragraphs have been added and reserved for future use.

Paragraph (z): This paragraph has been added to contain information that has been relocated from the introductory text of current paragraph (a)(3) and current subparagraphs (a)(3)(i)–(ii) as a result of the NRC's compliance with the OFR's revised guidelines for incorporating by reference consensus standards in regulations. Paragraph (z) has also been revised to allow applicants and licensees to request alternatives to the requirements in paragraph (b) of this section.

IX. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this final rule would not impose a significant economic impact on a substantial number of small entities. This final rule would affect only the licensing and operation of nuclear power plants. The companies that own these plants are not ''small entities'' as defined in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

X. Regulatory Analysis

The ASME Code Cases listed in the RGs to be incorporated by reference provide voluntary alternatives to the provisions in the ASME BPV and OM Codes for design, construction, ISI, and IST of specific structures, systems, and components used in nuclear power plants. Implementation of these Code Cases is not required. Licensees and applicants use NRC-approved ASME Code Cases to reduce unnecessary regulatory burden or gain additional operational flexibility. It would be difficult for the NRC to provide these advantages independently of the ASME Code Case publication process without expending considerable additional resources. The NRC has prepared a regulatory analysis addressing the qualitative benefits of the alternatives considered in this rulemaking and comparing the costs associated with each alternative (ADAMS Accession No. ML14010A426). Copies of the regulatory analysis are available to the public as indicated in Section XVIII, ''Availability of Documents,'' of this document.

XI. Backfitting and Issue Finality

The provisions in this final rule would allow licensees and applicants to voluntarily apply NRC-approved Code Cases, sometimes with NRC-specified conditions. The approved Code Cases are listed in three RGs that are incorporated by references into § 50.55a.

An applicant's and/or a licensee's voluntary application of an approved Code Case does not constitute backfitting, inasmuch as there is no imposition of a new requirement or new position. Similarly, voluntary application of an approved Code Case by a 10 CFR part 52 applicant or licensee does not represent NRC imposition of a requirement or action, which is inconsistent with any issue finality provision in 10 CFR part 52. For these reasons, the NRC finds that this final rule does not involve any provisions requiring the preparation of a backfit analysis or documentation demonstrating that one or more of the issue finality criteria in 10 CFR part 52 are met.

XII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

XIII. Finding of No Significant Environmental Impact: Environmental Assessment

This action stems from the Commission's practice of incorporating by reference the RGs listing the most recent set of NRC-approved ASME Code Cases. The purpose of this action is to allow licensees to use the Code Cases listed in the RGs as alternatives to requirements in the ASME BPV and OM Codes for the construction, ISI, and IST of nuclear power plant components. This action is intended to advance the NRC's strategic goal of ensuring adequate protection of public health and safety and the environment. It also demonstrates the agency's commitment to participate in the national consensus standards process under the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113.

The National Environmental Policy Act of 1969, as amended (NEPA), requires Federal government agencies to study the impacts of their ''major Federal actions significantly affecting the quality of the human environment'' and prepare detailed statements on the environmental impacts of the action and alternatives to the action (42 U.S.C. 4332(C); Sec. 102(C) of NEPA).

The Commission has determined under NEPA, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule would not be a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

As alternatives to the ASME Code, NRC-approved Code Cases provide an equivalent level of safety. Therefore, the probability or consequences of accidents is not changed. There are also no significant, non-radiological impacts associated with this action because no changes would be made affecting non-radiological plant effluents and because no changes would be made in activities that would adversely affect the environment. The determination of this environmental assessment is that there will be no significant offsite impact to the public from this action.

XIV. Paperwork Reduction Act Statement

This final rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget (OMB), approval number 3150–0011.

The burden to the public for these information collections is estimated to average a reduction of 80 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments on any aspect of these information collections, including suggestions for further reducing the burden, to the FOIA, Privacy, and Information Collections Branch (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *INFOCOLLECTS.RESOURCE@NRC.GOV;* and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XV. Congressional Review Act

In accordance with the Congressional Review Act of 1996 (5 U.S.C. 801–808), the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

XVI. Voluntary Consensus Standards

Section 12(d)(3) of the NTTAA, Public Law 104–113, and implementing guidance in OMB Circular A–119 (February 10, 1998), require each Federal government agency (should it decide that regulation is necessary) to use a voluntary consensus standard instead of developing a government-unique standard. An exception to using a voluntary consensus standard is allowed where the use of such a standard is inconsistent with applicable law or is otherwise impractical. The NTTAA requires Federal agencies to use industry consensus standards to the extent practical; it does not require Federal agencies to endorse a standard in its entirety. Neither the NTTAA nor OMB Circular A–119 prohibit an agency from adopting a voluntary consensus standard while taking exception to specific portions of the standard, if those provisions are deemed to be ''inconsistent with applicable law or otherwise impractical.'' Furthermore, taking specific exceptions furthers the Congressional intent of Federal reliance on voluntary consensus standards because it allows the adoption of substantial portions of consensus standards without the need to reject the standards in their entirety because of limited provisions that are not acceptable to the agency.

In this rulemaking, the NRC is continuing its existing practice of approving the use of ASME BPV and OM Code Cases, which are ASME-approved alternatives to compliance with various provisions of the ASME BPV and OM Codes. The NRC's approval of the ASME Code Cases is accomplished by amending the NRC's regulations to incorporate by reference the latest revisions of the following, which are the subject of this rulemaking, into § 50.55a: RG 1.84, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' Revision 36; RG 1.147, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,'' Revision 17; and RG 1.192, ''Operation and Maintenance Code Case Acceptability, ASME Code,'' Revision 1. These RGs list the ASME Code Cases that the NRC has approved for use. The ASME Code Cases are national consensus standards as defined in the NTTAA and OMB Circular A–119. The ASME Code Cases constitute voluntary consensus standards, in which all interested parties (including the NRC and licensees of nuclear power plants) participate. Therefore, the NRC's approval of the use of the ASME Code Cases identified in RGs 1.84, Revision 36; RG 1.147, Revision 17; and RG 1.192, Revision 1, which are the subject of this rulemaking, is consistent with the overall objectives of the NTTAA and OMB Circular A–119.

The NRC reviews each Section III, Section XI, and OM Code Case published by the ASME to ascertain whether it is consistent with the safe operation of nuclear power plants. The Code Cases found to be generically acceptable are listed in the RGs that are incorporated by reference in § 50.55a. The Code Cases found to be unacceptable are listed in RG 1.193, but licensees may still seek the NRC's approval to apply these Code Cases through the processes in § 50.55a for requesting the approval of alternatives or for relief. Code Cases that the NRC finds to be conditionally acceptable are also listed in RGs 1.84, 1.147, and 1.192, which are the subject of this rulemaking, together with the conditions that must be used if the Code Case is applied. The NRC believes that this rule complies with the NTTAA and OMB Circular A–119 despite these conditions. If the NRC did not

conditionally accept ASME Code Cases, it would disapprove these Code Cases entirely. The effect would be that licensees and applicants would submit a larger number of requests for use of alternatives under the current § 50.55a(a)(3), requests for relief under § 50.55a(f) and (g), or requests for exemptions under §§ 50.12 and/or 52.7. For these reasons, the final rule does not conflict with any policy on agency use of consensus standards specified in OMB Circular A–119.

The NRC did not identify any other voluntary consensus standards developed by the United States voluntary consensus standards bodies for use within the United States that the NRC could approve instead of the ASME Code Cases.

The NRC also did not identify any voluntary consensus standards developed by multinational voluntary consensus standards bodies for use on a multinational basis that the NRC could incorporate by reference instead of the ASME Code Cases. This is because no other multinational voluntary consensus body would develop alternatives to a voluntary consensus standard (i.e., either the ASME BPV Code or the ASME OM Code) for which they did not develop and do not maintain.

In summary, this final rule satisfies the requirements of Section 12(d)(3) of the NTTAA and OMB Circular A–119.

XVII. Availability of Regulatory Guides

Regulatory Guides Being Incorporated by Reference

The NRC is issuing three revisions to existing guides in the agency's ''Regulatory Guide'' series. This final rule is incorporating by reference these three RGs into 10 CFR 50.55a.

Revision 36 of RG 1.84, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' is available electronically under ADAMS Accession No. ML13339A515.

Revision 17 of RG 1.147, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,'' is available electronically under ADAMS Accession No. ML13339A689.

Revision 1 of RG 1.192, ''Operation and Maintenance [OM] Code Case Acceptability, ASME OM Code,'' is available electronically under ADAMS Accession No. ML13340A034.

As discussed in Section II of this document, ''Opportunities for Public Participation,'' these three RGs were issued in draft form for public comment in June 2013. The NRC staff's responses to the public comments received are located in Section III of this document, ''Public Comment Analysis.''

Issuance of Regulatory Guide 1.193

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This RG is not being incorporated by reference in this final rule.

Revision 4 of RG 1.193, *''ASME Code Cases Not Approved for Use,''* was issued with a temporary identification of Draft Regulatory Guide, DG–1233. This revision of RG 1.193 includes new information reviewed by the NRC in ASME BPV Code Section III and Section XI Code Cases listed in Supplements 1–10 to the 2007 Edition, and the OM Code Cases listed in the 2002 Addenda through the 2006 Addenda. This is an update to RG 1.193, Revision 3, which included information from Supplements 2–11 to the 2004 Edition, and Supplement 0 to the 2007 Edition of the BPV Code.

This RG does not approve the use of the Code Cases listed herein. Licensees may submit a plant-specific request to implement one or more of the Code Cases listed in this RG. The request must address the NRC's concerns about the Code Case at issue.

The NRC published DG–1233 in the **Federal Register** on June 24, 2013 (78 FR 37848), for a 75-day public comment period. The public comment period closed on September 9, 2013. Public comments on DG–1233 and the NRC staff responses to the public comments are available in ADAMS under Accession No. ML14106A577.

XVIII. Availability of Documents

The NRC is making the documents identified in Table IV available to interested persons through one or more of the following methods, as indicated. To access documents related to this action, see the **ADDRESSES** section of this document.

TABLE IV—AVAILABILITY OF DOCUMENTS

Proposed rule documents	ADAMS Accession No.
Proposed Rule–Regulatory Analysis	ML103060189
Proposed Rule–**Federal Register** Notice	ML103060003
Proposed Reorganization of Paragraphs and Subparagraphs	ML12289A121
Draft RG 1.84, Revision 36 (DG–1230)	ML102590003
Draft RG 1.147, Revision 17 (DG–1231)	ML102590004
Draft RG 1.192, Revision 1 (DG–1232)	ML102600001
Final rule documents	**ADAMS Accession No.**
Final Rule–Regulatory Analysis	ML14010A426
Final Rule–**Federal Register** Notice	ML14008A332
Final Reorganization of Paragraphs and Subparagraphs	ML14015A191
Cross-Reference Tables (package)	ML14211A050
RG 1.84, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' Revision 36	ML13339A515
RG 1.147, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,'' Revision 17	ML13339A689
RG 1.192, ''Operation and Maintenance Code Case Acceptability, ASME OM Code,'' Revision 1	ML13340A034
RG 1.193, ''ASME Code Cases Not Approved for Use,'' Revision 4	ML13350A001
RG 1.200, ''An Approach for Determining the Technical Adequacy of Probabilistic Risk Assessment Results for Risk-informed Activities,'' Revision 2.	ML090410014
RG 1.201, ''Guidelines for Categorizing Structures, Systems, and Components in Nuclear Power Plants According to Their Safety Significance,'' Revision 1.	ML061090627
2007/12/19—''SECY—Petition for Rulemaking to amend 10 CFR 50.55a—Rev.1'' submitted by Ray West	ML073600974
Hatch Plant Report—''Hatch, Units 1 & 2, Farley, Units 1 & 2, Vogtle, Units 1 & 2, Safety Evaluation Re. Request to Use ASME Code Case N–661''.	ML033280037

Final rule documents	ADAMS Accession No.
EPRI Technical Report—Project No. 704—BWRVIP–108: BWR Vessel & Internals Project, Technical Basis for Reduction of Inspection Requirements for Boiling Water Reactor Nozzle-to-Vessel Shell Welds & Nozzle Blend Radii.	ML023330203
Safety Evaluation of Proprietary EPRI Report—BWR Vessel and Internals Project, Technical Basis for the Reduction of Inspection Requirements for the Boiling Water Reactor Nozzle-to-Vessel Shell Welds and Nozzle Inner Radius (BWRVIP–108).	ML073600374
Comment Letter—Comment (4) of Bryan A. Erler on Behalf of ASME Supporting Draft Regulatory Guides DG–1191, DG–1192, DG–1193, and the Proposed Rule Incorporating the Final Revisions of these Regulatory Guides into 10 CFR 50.55a.	ML092190138
SRM–COMNJD–03–0002—Stabilizing the PRA Quality Expectations and Requirements	ML033520457
SECY–04–0118—Plan for the Implementation of the Commission's Phased Approach to Probabilistic Risk Assessment Quality.	ML041470505
SRM–SECY–04–0118—Plan for the Implementation of the Commission's Phased Approach to Probabilistic Risk Assessment Quality.	ML042800369
NUREG–0800—Chapter 4, Section 4.5.1, Revision 3, Control Rod Drive Structural Materials, dated March 2007	ML070230007
NUREG–0800—Chapter 5, Section 5.2.3, Revision 3, Reactor Coolant Pressure Boundary Materials, dated March 2007	ML063190006
NUREG/CR–6943—A Study of Remote Visual Methods to Detect Cracking in Reactor Components	ML073110060

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for part 50 is revised to read as follows:

Authority: Atomic Energy Act secs. 102, 103, 104, 105, 147, 149, 161, 181, 182, 183, 186, 189, 223, 234 (42 U.S.C. 2132, 2133, 2134, 2135, 2167, 2169, 2201, 2231, 2232, 2233, 2236, 2239, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Nuclear Waste Policy Act sec. 306 (42 U.S.C. 10226); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 194 (2005). Section 50.7 also issued under Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 50.10 also issued under Atomic Energy Act secs. 101, 185 (42 U.S.C. 2131, 2235); National Environmental Protection Act sec. 102 (42 U.S.C. 4332). Sections 50.13, 50.54(d), and 50.103 also issued under Atomic Energy Act sec. 108 (42 U.S.C. 2138).

Sections 50.23, 50.35, 50.55, and 50.56 also issued under Atomic Energy Act sec. 185 (42 U.S.C. 2235). Appendix Q also issued under National Environmental Protection Act sec. 102 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415 (42 U.S.C. 2239). Section 50.78 also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234).

■ 2. In § 50.54, revise the introductory text, add reserved paragraph (ii), and add paragraph (jj) to read as follows:

§ 50.54 Conditions of licenses.

The following paragraphs of this section, with the exception of paragraphs (r) and (gg), and the applicable requirements of 10 CFR 50.55a, are conditions in every nuclear power reactor operating license issued under this part. The following paragraphs with the exception of paragraph (r), (s), and (u) of this section are conditions in every combined license issued under part 52 of this chapter, provided, however, that paragraphs (i) introductory text, (i)(1), (j), (k), (l), (m), (n), (q), (w), (x), (y), (z), and (hh) of this section are only applicable after the Commission makes the finding under § 52.103(g) of this chapter.

* * * * *

(ii) [Reserved]

(jj) Structures, systems, and components subject to the codes and standards in 10 CFR 50.55a must be designed, fabricated, erected, constructed, tested, and inspected to quality standards commensurate with the importance of the safety function to be performed.

■ 3. In § 50.55, revise the introductory text, add reserved paragraphs (g) and (h), and add paragraph (i) to read as follows:

§ 50.55 Conditions of construction permits, early site permits, combined licenses, and manufacturing licenses.

Each construction permit for a utilization facility is subject to the following terms and conditions and the applicable requirements of § 50.55a; each construction permit for a production facility is subject to the following terms and conditions with the exception of paragraph (i); each early site permit is subject to the terms and conditions in paragraph (f) of this section; each manufacturing license is subject to the terms and conditions in paragraphs (e), (f), and (i) of this section and the applicable requirements of § 50.55a; and each combined license is subject to the terms and conditions in paragraphs (e), (f), and (i) of this section and the applicable requirements of § 50.55a until the date that the Commission makes the finding under § 52.103(g) of this chapter:

* * * * *

(g) [Reserved]

(h) [Reserved]

(i) Structures, systems, and components subject to the codes and standards in 10 CFR 50.55a must be designed, fabricated, erected, constructed, tested, and inspected to quality standards commensurate with the importance of the safety function to be performed.

■ 4. Revise § 50.55a to read as follows:

§ 50.55a Codes and standards.

(a) *Documents approved for incorporation by reference.* The standards listed in this paragraph have been approved for incorporation by reference by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. The standards are available for inspection at the NRC Technical Library, 11545 Rockville Pike, Rockville, Maryland 20852; telephone: 301–415–6239; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(1) *American Society of Mechanical Engineers* (*ASME),* Three Park Avenue, New York, NY 10016; telephone:

1–800–843–2763; *http://www.asme.org/Codes/.*

(i) *ASME Boiler and Pressure Vessel Code, Section III.* The editions and addenda for Section III of the ASME Boiler and Pressure Vessel Code are listed below, but limited to those provisions identified in paragraph (b)(1) of this section.

(A) ''Rules for Construction of Nuclear Vessels:''

(*1*) 1963 Edition,
(*2*) Summer 1964 Addenda,
(*3*) Winter 1964 Addenda,
(*4*) 1965 Edition,
(*5*) 1965 Summer Addenda,
(*6*) 1965 Winter Addenda,
(*7*) 1966 Summer Addenda,
(*8*) 1966 Winter Addenda,
(*9*) 1967 Summer Addenda,
(*10*) 1967 Winter Addenda,
(*11*) 1968 Edition,
(*12*) 1968 Summer Addenda,
(*13*)1968 Winter Addenda,
(*14*) 1969 Summer Addenda,
(*15*) 1969 Winter Addenda,
(*16*) 1970 Summer Addenda, and
(*17*) 1970 Winter Addenda.

(B) ''Rules for Construction of Nuclear Power Plant Components:''

(*1*) 1971 Edition,
(*2*) 1971 Summer Addenda,
(*3*) 1971 Winter Addenda,
(*4*) 1972 Summer Addenda,
(*5*) 1972 Winter Addenda,
(*6*) 1973 Summer Addenda, and
(*7*) 1973 Winter Addenda.

(C) ''Division 1 Rules for Construction of Nuclear Power Plant Components:''

(*1*) 1974 Edition,
(*2*) 1974 Summer Addenda,
(*3*) 1974 Winter Addenda,
(*4*) 1975 Summer Addenda,
(*5*) 1975 Winter Addenda,
(*6*) 1976 Summer Addenda, and
(*7*) 1976 Winter Addenda;

(D) ''Rules for Construction of Nuclear Power Plant Components—Division 1'';

(*1*) 1977 Edition,
(*2*) 1977 Summer Addenda,
(*3*) 1977 Winter Addenda,
(*4*) 1978 Summer Addenda,
(*5*) 1978 Winter Addenda,
(*6*) 1979 Summer Addenda,
(*7*) 1979 Winter Addenda,
(*8*) 1980 Edition,
(*9*) 1980 Summer Addenda,
(*10*) 1980 Winter Addenda,
(*11*) 1981 Summer Addenda,
(*12*) 1981 Winter Addenda,
(*13*) 1982 Summer Addenda,
(*14*) 1982 Winter Addenda,
(*15*) 1983 Edition,
(*16*) 1983 Summer Addenda,
(*17*) 1983 Winter Addenda,
(*18*) 1984 Summer Addenda,
(*19*) 1984 Winter Addenda,
(*20*) 1985 Summer Addenda,
(*21*) 1985 Winter Addenda,
(*22*) 1986 Edition,
(*23*) 1986 Addenda,
(*24*) 1987 Addenda,
(*25*) 1988 Addenda,
(*26*) 1989 Edition,
(*27*) 1989 Addenda,
(*28*) 1990 Addenda,
(*29*) 1991 Addenda,
(*30*) 1992 Edition,
(*31*) 1992 Addenda,
(*32*) 1993 Addenda,
(*33*) 1994 Addenda,
(*34*) 1995 Edition,
(*35*) 1995 Addenda,
(*36*) 1996 Addenda, and
(*37*) 1997 Addenda.

(E) ''Rules for Construction of Nuclear Facility Components—Division 1:''

(*1*) 1998 Edition,
(*2*) 1998 Addenda,
(*3*) 1999 Addenda,
(*4*) 2000 Addenda,
(*5*) 2001 Edition,
(*6*) 2001 Addenda,
(*7*) 2002 Addenda,
(*8*) 2003 Addenda,
(*9*) 2004 Edition,
(*10*) 2005 Addenda,
(*11*) 2006 Addenda,
(*12*) 2007 Edition, and
(*13*) 2008 Addenda.

(ii) *ASME Boiler and Pressure Vessel Code, Section XI.* The editions and addenda for Section XI of the ASME Boiler and Pressure Vessel Code are listed below, but limited to those provisions identified in paragraph (b)(2) of this section.

(A) ''Rules for Inservice Inspection of Nuclear Reactor Coolant Systems:''

(*1*) 1970 Edition,
(*2*) 1971 Edition,
(*3*) 1971 Summer Addenda,
(*4*) 1971 Winter Addenda,
(*5*) 1972 Summer Addenda,
(*6*) 1972 Winter Addenda,
(*7*) 1973 Summer Addenda, and
(*8*) 1973 Winter Addenda.

(B) ''Rules for Inservice Inspection of Nuclear Power Plant Components:''

(*1*) 1974 Edition,
(*2*) 1974 Summer Addenda,
(*3*) 1974 Winter Addenda, and
(*4*) 1975 Summer Addenda.

(C) ''Rules for Inservice Inspection of Nuclear Power Plant Components—Division 1:''

(*1*) 1977 Edition,
(*2*) 1977 Summer Addenda,
(*3*) 1977 Winter Addenda,
(*4*) 1978 Summer Addenda,
(*5*) 1978 Winter Addenda,
(*6*) 1979 Summer Addenda,
(*7*) 1979 Winter Addenda,
(*8*) 1980 Edition,
(*9*) 1980 Winter Addenda,
(*10*) 1981 Summer Addenda,
(*11*) 1981 Winter Addenda,
(*12*) 1982 Summer Addenda,
(*13*) 1982 Winter Addenda,
(*14*) 1983 Edition,
(*15*) 1983 Summer Addenda,
(*16*) 1983 Winter Addenda,
(*17*) 1984 Summer Addenda,
(*18*) 1984 Winter Addenda,
(*19*) 1985 Summer Addenda,
(*20*) 1985 Winter Addenda,
(*21*) 1986 Edition,
(*22*) 1986 Addenda,
(*23*) 1987 Addenda,
(*24*) 1988 Addenda,
(*25*) 1989 Edition,
(*26*) 1989 Addenda,
(*27*) 1990 Addenda,
(*28*) 1991 Addenda,
(*29*) 1992 Edition,
(*30*) 1992 Addenda,
(*31*) 1993 Addenda,
(*32*) 1994 Addenda,
(*33*) 1995 Edition,
(*34*) 1995 Addenda,
(*35*) 1996 Addenda,
(*36*) 1997 Addenda,
(*37*) 1998 Edition,
(*38*) 1998 Addenda,
(*39*) 1999 Addenda,
(*40*) 2000 Addenda,
(*41*) 2001 Edition,
(*42*) 2001 Addenda,
(*43*) 2002 Addenda,
(*44*) 2003 Addenda,
(*45*) 2004 Edition,
(*46*) 2005 Addenda,
(*47*) 2006 Addenda,
(*48*) 2007 Edition, and
(*49*) 2008 Addenda.

(iii) *ASME Code Cases: Nuclear Components*—(A) *ASME Code Case N–722–1.* ASME Code Case N–722–1, ''Additional Examinations for PWR Pressure Retaining Welds in Class 1 Components Fabricated with Alloy 600/82/182 Materials, Section XI, Division 1'' (Approval Date: January 26, 2009), with the conditions in paragraph (g)(6)(ii)(E) of this section.

(B) *ASME Code Case N–729–1.* ASME Code Case N–729–1, ''Alternative Examination Requirements for PWR Reactor Vessel Upper Heads With Nozzles Having Pressure-Retaining Partial-Penetration Welds, Section XI, Division 1'' (Approval Date: March 28, 2006), with the conditions in paragraph (g)(6)(ii)(D) of this section.

(C) *ASME Code Case N–770–1.* ASME Code Case N–770–1, ''Additional Examinations for PWR Pressure Retaining Welds in Class 1 Components Fabricated with Alloy 600/82/182 Materials, Section XI, Division 1'' (Approval Date: December 25, 2009), with the conditions in paragraph (g)(6)(ii)(F) of this section.

(iv) *ASME Operation and Maintenance Code.* The editions and addenda for the ASME Code for Operation and Maintenance of Nuclear

Power Plants are listed below, but limited to those provisions identified in paragraph (b)(3) of this section.

(A) ''Code for Operation and Maintenance of Nuclear Power Plants:''

(*1*) 1995 Edition,

(*2*) 1996 Addenda,

(*3*) 1997 Addenda,

(*4*) 1998 Edition,

(*5*) 1999 Addenda,

(*6*) 2000 Addenda,

(*7*) 2001 Edition,

(*8*) 2002 Addenda,

(*9*) 2003 Addenda,

(*10*) 2004 Edition,

(*11*) 2005 Addenda, and

(*12*) 2006 Addenda.

(B) [Reserved]

(2) *Institute of Electrical and Electronics Engineers (IEEE) Service Center,* 445 Hoes Lane, Piscataway, NJ 08855; telephone: 1–800–678–4333; *http://ieeexplore.ieee.org.*

(i) *IEEE standard 279–1971.* (IEEE Std 279–1971), ''Criteria for Protection Systems for Nuclear Power Generating Stations'' (Approval Date: June 3, 1971), referenced in paragraph (h)(2) of this section.

(ii) *IEEE Standard 603–1991.* (IEEE Std 603–1991), ''Standard Criteria for Safety Systems for Nuclear Power Generating Stations'' (Approval Date: June 27, 1991), referenced in paragraphs (h)(2) and (3) of this section. All other standards that are referenced in IEEE Std 603–1991 are not approved for incorporation by reference.

(iii) *IEEE standard 603–1991, correction sheet.* (IEEE Std 603–1991 correction sheet), ''Standard Criteria for Safety Systems for Nuclear Power Generating Stations, Correction Sheet, Issued January 30, 1995, '' referenced in paragraphs (h)(2) and (3) of this section. (Copies of this correction sheet may be purchased from Thomson Reuters, 3916 Ranchero Dr., Ann Arbor, MI 48108; *http://www.techstreet.com.*)

(3) *U.S. Nuclear Regulatory Commission (NRC) Public Document Room,* 11555 Rockville Pike, Rockville, Maryland 20852; telephone: 1–800–397–4209; email: *pdr.resource@nrc.gov; http://www.nrc.gov/reading-rm/doc-collections/reg-guides/.*

(i) *NRC Regulatory Guide 1.84, Revision 36.* NRC Regulatory Guide 1.84, Revision 36, ''Design, Fabrication, and Materials Code Case Acceptability, ASME Section III,'' dated August 2014, with the requirements in paragraph (b)(4) of this section.

(ii) *NRC Regulatory Guide 1.147, Revision 17.* NRC Regulatory Guide 1.147, Revision 17, ''Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1,'' dated August 2014, which lists ASME Code Cases that the NRC has approved in accordance with the requirements in paragraph (b)(5) of this section.

(iii) *NRC Regulatory Guide 1.192, Revision 1.* NRC Regulatory Guide 1.192, Revision 1, ''Operation and Maintenance Code Case Acceptability, ASME OM Code,'' dated August 2014, which lists ASME Code Cases that the NRC has approved in accordance with the requirements in paragraph (b)(6) of this section.

(b) *Use and conditions on the use of standards.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME Boiler and Pressure Vessel Code (BPV Code) and the ASME Code for Operation and Maintenance of Nuclear Power Plants (OM Code) as specified in this paragraph. Each combined license for a utilization facility is subject to the following conditions.

(1) *Conditions on ASME BPV Code Section III.* Each manufacturing license, standard design approval, and design certification under part 52 of this chapter is subject to the following conditions. As used in this section, references to Section III refer to Section III of the ASME Boiler and Pressure Vessel Code and include the 1963 Edition through 1973 Winter Addenda and the 1974 Edition (Division 1) through the 2008 Addenda (Division 1), subject to the following conditions:

(i) *Section III condition: Section III materials.* When applying the 1992 Edition of Section III, applicants or licensees must apply the 1992 Edition with the 1992 Addenda of Section II of the ASME Boiler and Pressure Vessel Code.

(ii) *Section III condition: Weld leg dimensions.* When applying the 1989 Addenda through the latest edition and addenda, applicants or licensees may not apply subparagraphs NB–3683.4(c)(1) and NB–3683.4(c)(2) or Footnote 11 from the 1989 Addenda through the 2003 Addenda, or Footnote 13 from the 2004 Edition through the 2008 Addenda to Figures NC–3673.2(b)–1 and ND–3673.2(b)–1 for welds with leg size less than 1.09 t_n.

(iii) *Section III condition: Seismic design of piping.* Applicants or licensees may use Subarticles NB–3200, NB–3600, NC–3600, and ND–3600 for seismic design of piping, up to and including the 1993 Addenda, subject to the condition specified in paragraph (b)(1)(ii) of this section. Applicants or licensees may not use these subarticles for seismic design of piping in the 1994 Addenda through the 2005 Addenda incorporated by reference in paragraph (a)(1) of this section, except that Subarticle NB–3200 in the 2004 Edition through the 2008 Addenda may be used by applicants and licensees, subject to the condition in paragraph (b)(1)(iii)(A) of this section. Applicants or licensees may use Subarticles NB–3600, NC–3600, and ND–3600 for the seismic design of piping in the 2006 Addenda through the 2008 Addenda, subject to the conditions of this paragraph corresponding to those subarticles.

(A) *Seismic design of piping: First provision.* When applying Note (1) of Figure NB–3222–1 for Level B service limits, the calculation of P_b stresses must include reversing dynamic loads (including inertia earthquake effects) if evaluation of these loads is required by NB–3223(b).

(B) *Seismic design of piping: Second provision.* For Class 1 piping, the material and D_o/t requirements of NB–3656(b) must be met for all Service Limits when the Service Limits include reversing dynamic loads, and the alternative rules for reversing dynamic loads are used.

(iv) *Section III condition: Quality assurance.* When applying editions and addenda later than the 1989 Edition of Section III, the requirements of NQA–1, ''Quality Assurance Requirements for Nuclear Facilities,'' 1986 Edition through the 1994 Edition, are acceptable for use, provided that the edition and addenda of NQA–1 specified in NCA–4000 is used in conjunction with the administrative, quality, and technical provisions contained in the edition and addenda of Section III being used.

(v) *Section III condition: Independence of inspection.* Applicants or licensees may not apply NCA–4134.10(a) of Section III, 1995 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1) of this section.

(vi) *Section III condition: Subsection NH.* The provisions in Subsection NH, ''Class 1 Components in Elevated Temperature Service,'' 1995 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1) of this section, may only be used for the design and construction of Type 316 stainless steel pressurizer heater sleeves where service conditions do not cause the components to reach temperatures exceeding 900 °F.

(vii) *Section III condition: Capacity certification and demonstration of function of incompressible-fluid pressure-relief valves.* When applying the 2006 Addenda through the 2007 Edition up to and including the 2008 Addenda, applicants and licensees may use paragraph NB–7742, except that paragraph NB–7742(a)(2) may not be used. For a valve design of a single size

to be certified over a range of set pressures, the demonstration of function tests under paragraph NB–7742 must be conducted as prescribed in NB–7732.2 on two valves covering the minimum set pressure for the design and the maximum set pressure that can be accommodated at the demonstration facility selected for the test.

(2) *Conditions on ASME BPV Code Section XI.* As used in this section, references to Section XI refer to Section XI, Division 1, of the ASME Boiler and Pressure Vessel Code, and include the 1970 Edition through the 1976 Winter Addenda and the 1977 Edition through the 2007 Edition with the 2008 Addenda, subject to the following conditions:

(i) [Reserved]

(ii) *Section XI condition: Pressure-retaining welds in ASME Code Class 1 piping (applies to Table IWB–2500 and IWB–2500–1 and Category B–J).* If the facility's application for a construction permit was docketed prior to July 1, 1978, the extent of examination for Code Class 1 pipe welds may be determined by the requirements of Table IWB–2500 and Table IWB–2600 Category B–J of Section XI of the ASME BPV Code in the 1974 Edition and Addenda through the Summer 1975 Addenda or other requirements the NRC may adopt.

(iii) [Reserved]

(iv) [Reserved]

(v) [Reserved]

(vi) *Section XI condition: Effective edition and addenda of Subsection IWE and Subsection IWL.* Applicants or licensees may use either the 1992 Edition with the 1992 Addenda or the 1995 Edition with the 1996 Addenda of Subsection IWE and Subsection IWL, as conditioned by the requirements in paragraphs (b)(2)(viii) and (ix) of this section, when implementing the initial 120-month inspection interval for the containment inservice inspection requirements of this section. Successive 120-month interval updates must be implemented in accordance with paragraph (g)(4)(ii) of this section.

(vii) *Section XI condition: Section XI references to OM Part 4, OM Part 6, and OM Part 10 (Table IWA–1600–1).* When using Table IWA–1600–1, ''Referenced Standards and Specifications,'' in the Section XI, Division 1, 1987 Addenda, 1988 Addenda, or 1989 Edition, the specified ''Revision Date or Indicator'' for ASME/ANSI OM part 4, ASME/ANSI part 6, and ASME/ANSI part 10 must be the OMa–1988 Addenda to the OM–1987 Edition. These requirements have been incorporated into the OM Code, which is incorporated by reference in paragraph (a)(1)(iv) of this section.

(viii) *Section XI condition: Concrete containment examinations.* Applicants or licensees applying Subsection IWL, 1992 Edition with the 1992 Addenda, must apply paragraphs (b)(2)(viii)(A) through (E) of this section. Applicants or licensees applying Subsection IWL, 1995 Edition with the 1996 Addenda, must apply paragraphs (b)(2)(viii)(A), (b)(2)(viii)(D)(*3*), and (b)(2)(viii)(E) of this section. Applicants or licensees applying Subsection IWL, 1998 Edition through the 2000 Addenda, must apply paragraphs (b)(2)(viii)(E) and (F) of this section. Applicants or licensees applying Subsection IWL, 2001 Edition through the 2004 Edition, up to and including the 2006 Addenda, must apply paragraphs (b)(2)(viii)(E) through (G) of this section. Applicants or licensees applying Subsection IWL, 2007 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, must apply paragraph (b)(2)(viii)(E) of this section.

(A) *Concrete containment examinations: First provision.* Grease caps that are accessible must be visually examined to detect grease leakage or grease cap deformations. Grease caps must be removed for this examination when there is evidence of grease cap deformation that indicates deterioration of anchorage hardware.

(B) *Concrete containment examinations: Second provision.* When evaluation of consecutive surveillances of prestressing forces for the same tendon or tendons in a group indicates a trend of prestress loss such that the tendon force(s) would be less than the minimum design prestress requirements before the next inspection interval, an evaluation must be performed and reported in the Engineering Evaluation Report as prescribed in IWL–3300.

(C) *Concrete containment examinations: Third provision.* When the elongation corresponding to a specific load (adjusted for effective wires or strands) during retensioning of tendons differs by more than 10 percent from that recorded during the last measurement, an evaluation must be performed to determine whether the difference is related to wire failures or slip of wires in anchorage. A difference of more than 10 percent must be identified in the ISI Summary Report required by IWA–6000.

(D) *Concrete containment examinations: Fourth provision.* The applicant or licensee must report the following conditions, if they occur, in the ISI Summary Report required by IWA–6000:

(*1*) The sampled sheathing filler grease contains chemically combined water exceeding 10 percent by weight or the presence of free water;

(*2*) The absolute difference between the amount removed and the amount replaced exceeds 10 percent of the tendon net duct volume; and

(*3*) Grease leakage is detected during general visual examination of the containment surface.

(E) *Concrete containment examinations: Fifth provision.* For Class CC applications, the applicant or licensee must evaluate the acceptability of inaccessible areas when conditions exist in accessible areas that could indicate the presence of or the result in degradation to such inaccessible areas. For each inaccessible area identified, the applicant or licensee must provide the following in the ISI Summary Report required by IWA–6000:

(*1*) A description of the type and estimated extent of degradation, and the conditions that led to the degradation;

(*2*) An evaluation of each area, and the result of the evaluation; and

(*3*) A description of necessary corrective actions.

(F) *Concrete containment examinations: Sixth provision.* Personnel that examine containment concrete surfaces and tendon hardware, wires, or strands must meet the qualification provisions in IWA–2300. The ''owner-defined'' personnel qualification provisions in IWL–2310(d) are not approved for use.

(G) *Concrete containment examinations: Seventh provision.* Corrosion protection material must be restored following concrete containment post-tensioning system repair and replacement activities in accordance with the quality assurance program requirements specified in IWA–1400.

(ix) *Section XI condition: Metal containment examinations.* Applicants or licensees applying Subsection IWE, 1992 Edition with the 1992 Addenda, or the 1995 Edition with the 1996 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A) through (E) of this section. Applicants or licensees applying Subsection IWE, 1998 Edition through the 2001 Edition with the 2003 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A) and (B) and (b)(2)(ix)(F) through (I) of this section. Applicants or licensees applying Subsection IWE, 2004 Edition, up to and including the 2005 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A) and (B) and (b)(2)(ix)(F) through (H) of this section. Applicants or licensees applying Subsection IWE, 2004 Edition with the 2006 Addenda, must satisfy the requirements of paragraphs (b)(2)(ix)(A)(*2*) and (b)(2)(ix)(B) of this section. Applicants

or licensees applying Subsection IWE, 2007 Edition through the latest addenda incorporated by reference in paragraph (a)(1)(ii) of this section, must satisfy the requirements of paragraphs (b)(2)(ix)(A)(*2*) and (b)(2)(ix)(B) and (J) of this section.

(A) *Metal containment examinations: First provision.* For Class MC applications, the following apply to inaccessible areas.

(*1*) The applicant or licensee must evaluate the acceptability of inaccessible areas when conditions exist in accessible areas that could indicate the presence of or could result in degradation to such inaccessible areas.

(*2*) For each inaccessible area identified for evaluation, the applicant or licensee must provide the following in the ISI Summary Report as required by IWA–6000:

(*i*) A description of the type and estimated extent of degradation, and the conditions that led to the degradation;

(*ii*) An evaluation of each area, and the result of the evaluation; and

(*iii*) A description of necessary corrective actions.

(B) *Metal containment examinations: Second provision.* When performing remotely the visual examinations required by Subsection IWE, the maximum direct examination distance specified in Table IWA–2210–1 may be extended and the minimum illumination requirements specified in Table IWA–2210–1 may be decreased provided that the conditions or indications for which the visual examination is performed can be detected at the chosen distance and illumination.

(C) *Metal containment examinations: Third provision.* The examinations specified in Examination Category E–B, Pressure Retaining Welds, and Examination Category E–F, Pressure Retaining Dissimilar Metal Welds, are optional.

(D) *Metal containment examinations: Fourth provision.* This paragraph (b)(2)(ix)(D) may be used as an alternative to the requirements of IWE–2430.

(*1*) If the examinations reveal flaws or areas of degradation exceeding the acceptance standards of Table IWE–3410–1, an evaluation must be performed to determine whether additional component examinations are required. For each flaw or area of degradation identified that exceeds acceptance standards, the applicant or licensee must provide the following in the ISI Summary Report required by IWA–6000:

(*i*) A description of each flaw or area, including the extent of degradation, and the conditions that led to the degradation;

(*ii*) The acceptability of each flaw or area and the need for additional examinations to verify that similar degradation does not exist in similar components; and

(*iii*) A description of necessary corrective actions.

(*2*) The number and type of additional examinations to ensure detection of similar degradation in similar components.

(E) *Metal containment examinations: Fifth provision.* A general visual examination as required by Subsection IWE must be performed once each period.

(F) *Metal containment examinations: Sixth provision.* VT–1 and VT–3 examinations must be conducted in accordance with IWA–2200. Personnel conducting examinations in accordance with the VT–1 or VT–3 examination method must be qualified in accordance with IWA–2300. The ''owner-defined'' personnel qualification provisions in IWE–2330(a) for personnel that conduct VT–1 and VT–3 examinations are not approved for use.

(G) *Metal containment examinations: Seventh provision.* The VT–3 examination method must be used to conduct the examinations in Items E1.12 and E1.20 of Table IWE–2500–1, and the VT–1 examination method must be used to conduct the examination in Item E4.11 of Table IWE–2500–1. An examination of the pressure-retaining bolted connections in Item E1.11 of Table IWE–2500–1 using the VT–3 examination method must be conducted once each interval. The ''owner-defined'' visual examination provisions in IWE–2310(a) are not approved for use for VT–1 and VT–3 examinations.

(H) *Metal containment examinations: Eighth provision.* Containment bolted connections that are disassembled during the scheduled performance of the examinations in Item E1.11 of Table IWE–2500–1 must be examined using the VT–3 examination method. Flaws or degradation identified during the performance of a VT–3 examination must be examined in accordance with the VT–1 examination method. The criteria in the material specification or IWB–3517.1 must be used to evaluate containment bolting flaws or degradation. As an alternative to performing VT–3 examinations of containment bolted connections that are disassembled during the scheduled performance of Item E1.11, VT–3 examinations of containment bolted connections may be conducted whenever containment bolted connections are disassembled for any reason.

(I) *Metal containment examinations: Ninth provision.* The ultrasonic examination acceptance standard specified in IWE–3511.3 for Class MC pressure-retaining components must also be applied to metallic liners of Class CC pressure-retaining components.

(J) *Metal containment examinations: Tenth provision.* In general, a repair/replacement activity such as replacing a large containment penetration, cutting a large construction opening in the containment pressure boundary to replace steam generators, reactor vessel heads, pressurizers, or other major equipment; or other similar modification is considered a major containment modification. When applying IWE–5000 to Class MC pressure-retaining components, any major containment modification or repair/replacement must be followed by a Type A test to provide assurance of both containment structural integrity and leaktight integrity prior to returning to service, in accordance with 10 CFR part 50, Appendix J, Option A or Option B on which the applicant's or licensee's Containment Leak-Rate Testing Program is based. When applying IWE–5000, if a Type A, B, or C Test is performed, the test pressure and acceptance standard for the test must be in accordance with 10 CFR part 50, Appendix J.

(x) *Section XI condition: Quality assurance.* When applying Section XI editions and addenda later than the 1989 Edition, the requirements of NQA–1, ''Quality Assurance Requirements for Nuclear Facilities,'' 1979 Addenda through the 1989 Edition, are acceptable as permitted by IWA–1400 of Section XI, if the licensee uses its 10 CFR part 50, Appendix B, quality assurance program, in conjunction with Section XI requirements. Commitments contained in the licensee's quality assurance program description that are more stringent than those contained in NQA–1 must govern Section XI activities. Further, where NQA–1 and Section XI do not address the commitments contained in the licensee's Appendix B quality assurance program description, the commitments must be applied to Section XI activities.

(xi) [Reserved]

(xii) *Section XI condition: Underwater welding.* The provisions in IWA–4660, ''Underwater Welding,'' of Section XI, 1997 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, are not approved for use on irradiated material.

(xiii) [Reserved]

(xiv) *Section XI condition: Appendix VIII personnel qualification.* All personnel qualified for performing ultrasonic examinations in accordance with Appendix VIII must receive 8 hours of annual hands-on training on specimens that contain cracks. Licensees applying the 1999 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section may use the annual practice requirements in VII–4240 of Appendix VII of Section XI in place of the 8 hours of annual hands-on training provided that the supplemental practice is performed on material or welds that contain cracks, or by analyzing prerecorded data from material or welds that contain cracks. In either case, training must be completed no earlier than 6 months prior to performing ultrasonic examinations at a licensee's facility.

(xv) *Section XI condition: Appendix VIII specimen set and qualification requirements.* Licensees using Appendix VIII in the 1995 Edition through the 2001 Edition of the ASME Boiler and Pressure Vessel Code may elect to comply with all of the provisions in paragraphs (b)(2)(xv)(A) through (M) of this section, except for paragraph (b)(2)(xv)(F) of this section, which may be used at the licensee's option. Licensees using editions and addenda after 2001 Edition through the 2006 Addenda must use the 2001 Edition of Appendix VIII and may elect to comply with all of the provisions in paragraphs (b)(2)(xv)(A) through (M) of this section, except for paragraph (b)(2)(xv)(F) of this section, which may be used at the licensee's option.

(A) *Specimen set and qualification: First provision.* When applying Supplements 2, 3, and 10 to Appendix VIII, the following examination coverage criteria requirements must be used:

(*1*) Piping must be examined in two axial directions, and when examination in the circumferential direction is required, the circumferential examination must be performed in two directions, provided access is available. Dissimilar metal welds must be examined axially and circumferentially.

(*2*) Where examination from both sides is not possible, full coverage credit may be claimed from a single side for ferritic welds. Where examination from both sides is not possible on austenitic welds or dissimilar metal welds, full coverage credit from a single side may be claimed only after completing a successful single-sided Appendix VIII demonstration using flaws on the opposite side of the weld. Dissimilar metal weld qualifications must be demonstrated from the austenitic side of the weld, and the qualification may be expanded for austenitic welds with no austenitic sides using a separate add-on performance demonstration. Dissimilar metal welds may be examined from either side of the weld.

(B) *Specimen set and qualification: Second provision.* The following conditions must be used in addition to the requirements of Supplement 4 to Appendix VIII:

(*1*) Paragraph 3.1, Detection acceptance criteria—Personnel are qualified for detection if the results of the performance demonstration satisfy the detection requirements of ASME Section XI, Appendix VIII, Table VIII–S4–1, and no flaw greater than 0.25 inch through-wall dimension is missed.

(*2*) Paragraph 1.1(c), Detection test matrix—Flaws smaller than the 50 percent of allowable flaw size, as defined in IWB–3500, need not be included as detection flaws. For procedures applied from the inside surface, use the minimum thickness specified in the scope of the procedure to calculate a/t. For procedures applied from the outside surface, the actual thickness of the test specimen is to be used to calculate a/t.

(C) *Specimen set and qualification: Third provision.* When applying Supplement 4 to Appendix VIII, the following conditions must be used:

(*1*) A depth sizing requirement of 0.15 inch RMS must be used in lieu of the requirements in Subparagraphs 3.2(a) and 3.2(c), and a length sizing requirement of 0.75 inch RMS must be used in lieu of the requirement in Subparagraph 3.2(b).

(*2*) In lieu of the location acceptance criteria requirements of Subparagraph 2.1(b), a flaw will be considered detected when reported within 1.0 inch or 10 percent of the metal path to the flaw, whichever is greater, of its true location in the X and Y directions.

(*3*) In lieu of the flaw type requirements of Subparagraph 1.1(e)(1), a minimum of 70 percent of the flaws in the detection and sizing tests must be cracks. Notches, if used, must be limited by the following:

(*i*) Notches must be limited to the case where examinations are performed from the clad surface.

(*ii*) Notches must be semielliptical with a tip width of less than or equal to 0.010 inches.

(*iii*) Notches must be perpendicular to the surface within ±2 degrees.

(*4*) In lieu of the detection test matrix requirements in paragraphs 1.1(e)(2) and 1.1(e)(3), personnel demonstration test sets must contain a representative distribution of flaw orientations, sizes, and locations.

(D) *Specimen set and qualification: Fourth provision.* The following conditions must be used in addition to the requirements of Supplement 6 to Appendix VIII:

(*1*) Paragraph 3.1, Detection Acceptance Criteria—Personnel are qualified for detection if:

(*i*) No surface connected flaw greater than 0.25 inch through-wall has been missed.

(*ii*) No embedded flaw greater than 0.50 inch through-wall has been missed.

(*2*) Paragraph 3.1, Detection Acceptance Criteria—For procedure qualification, all flaws within the scope of the procedure are detected.

(*3*) Paragraph 1.1(b) for detection and sizing test flaws and locations—Flaws smaller than the 50 percent of allowable flaw size, as defined in IWB–3500, need not be included as detection flaws. Flaws that are less than the allowable flaw size, as defined in IWB–3500, may be used as detection and sizing flaws.

(*4*) Notches are not permitted.

(E) *Specimen set and qualification: Fifth provision.* When applying Supplement 6 to Appendix VIII, the following conditions must be used:

(*1*) A depth sizing requirement of 0.25 inch RMS must be used in lieu of the requirements of subparagraphs 3.2(a), 3.2(c)(2), and 3.2(c)(3).

(*2*) In lieu of the location acceptance criteria requirements in Subparagraph 2.1(b), a flaw will be considered detected when reported within 1.0 inch or 10 percent of the metal path to the flaw, whichever is greater, of its true location in the X and Y directions.

(*3*) In lieu of the length sizing criteria requirements of Subparagraph 3.2(b), a length sizing acceptance criteria of 0.75 inch RMS must be used.

(*4*) In lieu of the detection specimen requirements in Subparagraph 1.1(e)(1), a minimum of 55 percent of the flaws must be cracks. The remaining flaws may be cracks or fabrication type flaws, such as slag and lack of fusion. The use of notches is not allowed.

(*5*) In lieu of paragraphs 1.1(e)(2) and 1.1(e)(3) detection test matrix, personnel demonstration test sets must contain a representative distribution of flaw orientations, sizes, and locations.

(F) *Specimen set and qualification: Sixth provision.* The following conditions may be used for personnel qualification for combined Supplement 4 to Appendix VIII and Supplement 6 to Appendix VIII qualification. Licensees choosing to apply this combined qualification must apply all of the provisions of Supplements 4 and 6 including the following conditions:

(*1*) For detection and sizing, the total number of flaws must be at least 10. A

minimum of 5 flaws must be from Supplement 4, and a minimum of 50 percent of the flaws must be from Supplement 6. At least 50 percent of the flaws in any sizing must be cracks. Notches are not acceptable for Supplement 6.

(*2*) Examination personnel are qualified for detection and length sizing when the results of any combined performance demonstration satisfy the acceptance criteria of Supplement 4 to Appendix VIII.

(*3*) Examination personnel are qualified for depth sizing when Supplement 4 to Appendix VIII and Supplement 6 to Appendix VIII flaws are sized within the respective acceptance criteria of those supplements.

(G) *Specimen set and qualification: Seventh provision.* When applying Supplement 4 to Appendix VIII, Supplement 6 to Appendix VIII, or combined Supplement 4 and Supplement 6 qualification, the following additional conditions must be used, and examination coverage must include:

(*1*) The clad-to-base-metal-interface, including a minimum of 15 percent T (measured from the clad-to-base-metal-interface), must be examined from four orthogonal directions using procedures and personnel qualified in accordance with Supplement 4 to Appendix VIII.

(*2*) If the clad-to-base-metal-interface procedure demonstrates detectability of flaws with a tilt angle relative to the weld centerline of at least 45 degrees, the remainder of the examination volume is considered fully examined if coverage is obtained in one parallel and one perpendicular direction. This must be accomplished using a procedure and personnel qualified for single-side examination in accordance with Supplement 6. Subsequent examinations of this volume may be performed using examination techniques qualified for a tilt angle of at least 10 degrees.

(*3*) The examination volume not addressed by paragraph (b)(2)(xv)(G)(*1*) of this section is considered fully examined if coverage is obtained in one parallel and one perpendicular direction, using a procedure and personnel qualified for single sided examination when the conditions in paragraph (b)(2)(xv)(G)(*2*) are met.

(H) *Specimen set and qualification: Eighth provision.* When applying Supplement 5 to Appendix VIII, at least 50 percent of the flaws in the demonstration test set must be cracks and the maximum misorientation must be demonstrated with cracks. Flaws in nozzles with bore diameters equal to or less than 4 inches may be notches.

(I) *Specimen set and qualification: Ninth provision.* When applying Supplement 5, Paragraph (a), to Appendix VIII, the number of false calls allowed must be D/10, with a maximum of 3, where D is the diameter of the nozzle.

(J) [Reserved]

(K) *Specimen set and qualification: Eleventh provision.* When performing nozzle-to-vessel weld examinations, the following conditions must be used when the requirements contained in Supplement 7 to Appendix VIII are applied for nozzle-to-vessel welds in conjunction with Supplement 4 to Appendix VIII, Supplement 6 to Appendix VIII, or combined Supplement 4 and Supplement 6 qualification.

(*1*) For examination of nozzle-to-vessel welds conducted from the bore, the following conditions are required to qualify the procedures, equipment, and personnel:

(*i*) For detection, a minimum of four flaws in one or more full-scale nozzle mock-ups must be added to the test set. The specimens must comply with Supplement 6, paragraph 1.1, to Appendix VIII, except for flaw locations specified in Table VIII S6–1. Flaws may be notches, fabrication flaws, or cracks. Seventy-five (75) percent of the flaws must be cracks or fabrication flaws. Flaw locations and orientations must be selected from the choices shown in paragraph (b)(2)(xv)(K)(*4*) of this section, Table VIII–S7–1—Modified, with the exception that flaws in the outer eighty-five (85) percent of the weld need not be perpendicular to the weld. There may be no more than two flaws from each category, and at least one subsurface flaw must be included.

(*ii*) For length sizing, a minimum of four flaws as in paragraph (b)(2)(xv)(K)(*1*)(*i*) of this section must be included in the test set. The length sizing results must be added to the results of combined Supplement 4 to Appendix VIII and Supplement 6 to Appendix VIII. The combined results must meet the acceptance standards contained in paragraph (b)(2)(xv)(E)(*3*) of this section.

(*iii*) For depth sizing, a minimum of four flaws as in paragraph (b)(2)(xv)(K)(*1*)(*i*) of this section must be included in the test set. Their depths must be distributed over the ranges of Supplement 4, Paragraph 1.1, to Appendix VIII, for the inner 15 percent of the wall thickness and Supplement 6, Paragraph 1.1, to Appendix VIII, for the remainder of the wall thickness. The depth sizing results must be combined with the sizing results from Supplement 4 to Appendix VIII for the inner 15 percent and to Supplement 6 to Appendix VIII for the remainder of the wall thickness. The combined results must meet the depth sizing acceptance criteria contained in paragraphs (b)(2)(xv)(C)(*1*), (b)(2)(xv)(E)(*1*), and (b)(2)(xv)(F)(*3*) of this section.

(*2*) For examination of reactor pressure vessel nozzle-to-vessel welds conducted from the inside of the vessel, the following conditions are required:

(*i*) The clad-to-base-metal-interface and the adjacent examination volume to a minimum depth of 15 percent T (measured from the clad-to-base-metal-interface) must be examined from four orthogonal directions using a procedure and personnel qualified in accordance with Supplement 4 to Appendix VIII as conditioned by paragraphs (b)(2)(xv)(B) and (C) of this section.

(*ii*) When the examination volume defined in paragraph (b)(2)(xv)(K)(*2*)(*i*) of this section cannot be effectively examined in all four directions, the examination must be augmented by examination from the nozzle bore using a procedure and personnel qualified in accordance with paragraph (b)(2)(xv)(K)(*1*) of this section.

(*iii*) The remainder of the examination volume not covered by paragraph (b)(2)(xv)(K)(*2*)(*ii*) of this section or a combination of paragraphs (b)(2)(xv)(K)(*2*)(*i*) and (*ii*) of this section, must be examined from the nozzle bore using a procedure and personnel qualified in accordance with paragraph (b)(2)(xv)(K)(*1*) of this section, or from the vessel shell using a procedure and personnel qualified for single sided examination in accordance with Supplement 6 to Appendix VIII, as conditioned by paragraphs (b)(2)(xv)(D) through (G) of this section.

(*3*) For examination of reactor pressure vessel nozzle-to-shell welds conducted from the outside of the vessel, the following conditions are required:

(*i*) The clad-to-base-metal-interface and the adjacent metal to a depth of 15 percent T (measured from the clad-to-base-metal-interface) must be examined from one radial and two opposing circumferential directions using a procedure and personnel qualified in accordance with Supplement 4 to Appendix VIII, as conditioned by paragraphs (b)(2)(xv)(B) and (C) of this section, for examinations performed in the radial direction, and Supplement 5 to Appendix VIII, as conditioned by paragraph (b)(2)(xv)(J) of this section, for examinations performed in the circumferential direction.

(*ii*) The examination volume not addressed by paragraph (b)(2)(xv)(K)(*3*)(*i*) of this section must be examined in a minimum of one radial direction using a procedure and personnel qualified for single sided examination in accordance with Supplement 6 to Appendix VIII, as conditioned by paragraphs (b)(2)(xv)(D) through (G) of this section.

(*4*) Table VIII–S7–1, ''Flaw Locations and Orientations,'' Supplement 7 to Appendix VIII, is conditioned as follows:

TABLE VIII—S7–1—MODIFIED

[Flaw locations and orientations]

	Parallel to weld	Perpendicular to weld
Inner 15 percent	X	X
Outside Diameter Surface	X	
Subsurface	X	

(L) *Specimen set and qualification: Twelfth provision.* As a condition to the requirements of Supplement 8, Subparagraph 1.1(c), to Appendix VIII, notches may be located within one diameter of each end of the bolt or stud.

(M) *Specimen set and qualification: Thirteenth provision.* When implementing Supplement 12 to Appendix VIII, only the provisions related to the coordinated implementation of Supplement 3 to Supplement 2 performance demonstrations are to be applied.

(xvi) *Section XI condition: Appendix VIII single side ferritic vessel and piping and stainless steel piping examinations.* When applying editions and addenda prior to the 2007 Edition of Section XI, the following conditions apply.

(A) *Ferritic and stainless steel piping examinations: First provision.* Examinations performed from one side of a ferritic vessel weld must be conducted with equipment, procedures, and personnel that have demonstrated proficiency with single side examinations. To demonstrate equivalency to two sided examinations, the demonstration must be performed to the requirements of Appendix VIII, as conditioned by this paragraph and paragraphs (b)(2)(xv)(B) through (G) of this section, on specimens containing flaws with non-optimum sound energy reflecting characteristics or flaws similar to those in the vessel being examined.

(B) *Ferritic and stainless steel piping examinations: Second provision.* Examinations performed from one side of a ferritic or stainless steel pipe weld must be conducted with equipment, procedures, and personnel that have demonstrated proficiency with single side examinations. To demonstrate equivalency to two sided examinations, the demonstration must be performed to the requirements of Appendix VIII, as conditioned by this paragraph and paragraph (b)(2)(xv)(A) of this section.

(xvii) *Section XI condition: Reconciliation of quality requirements.* When purchasing replacement items, in addition to the reconciliation provisions of IWA–4200, 1995 Addenda through 1998 Edition, the replacement items must be purchased, to the extent necessary, in accordance with the licensee's quality assurance program description required by 10 CFR 50.34(b)(6)(ii).

(xviii) *Section XI condition: NDE personnel certification.* (A) *NDE personnel certification: First provision.* Level I and II nondestructive examination personnel must be recertified on a 3-year interval in lieu of the 5-year interval specified in the 1997 Addenda and 1998 Edition of IWA–2314, and IWA–2314(a) and IWA–2314(b) of the 1999 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section.

(B) *NDE personnel certification: Second provision.* When applying editions and addenda prior to the 2007 Edition of Section XI, paragraph IWA–2316 may only be used to qualify personnel that observe leakage during system leakage and hydrostatic tests conducted in accordance with IWA 5211(a) and (b).

(C) *NDE personnel certification: Third provision.* When applying editions and addenda prior to the 2005 Addenda of Section XI, licensee's qualifying visual examination personnel for VT–3 visual examination under paragraph IWA–2317 of Section XI must demonstrate the proficiency of the training by administering an initial qualification examination and administering subsequent examinations on a 3-year interval.

(xix) *Section XI condition: Substitution of alternative methods.* The provisions for substituting alternative examination methods, a combination of methods, or newly developed techniques in the 1997 Addenda of IWA–2240 must be applied when using the 1998 Edition through the 2004 Edition of Section XI of the ASME BPV Code. The provisions in IWA–4520(c), 1997 Addenda through the 2004 Edition, allowing the substitution of alternative methods, a combination of methods, or newly developed techniques for the methods specified in the Construction Code, are not approved for use. The provisions in IWA–4520(b)(2) and IWA–4521 of the 2008 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, allowing the substitution of ultrasonic examination for radiographic examination specified in the Construction Code, are not approved for use.

(xx) *Section XI condition: System leakage tests*—(A) *System leakage tests: First provision.* When performing system leakage tests in accordance with IWA–5213(a), 1997 through 2002 Addenda, the licensee must maintain a 10-minute hold time after test pressure has been reached for Class 2 and Class 3 components that are not in use during normal operating conditions. No hold time is required for the remaining Class 2 and Class 3 components provided that the system has been in operation for at least 4 hours for insulated components or 10 minutes for uninsulated components.

(B) *System leakage tests: Second provision.* The NDE provision in IWA–4540(a)(2) of the 2002 Addenda of Section XI must be applied when performing system leakage tests after repair and replacement activities performed by welding or brazing on a pressure retaining boundary using the 2003 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section.

(xxi) *Section XI condition: Table IWB–2500–1 examination requirements.* (A) *Table IWB–2500–1 examination requirements: First provision.* The provisions of Table IWB 2500–1, Examination Category B–D, Full Penetration Welded Nozzles in Vessels, Items B3.40 and B3.60 (Inspection

Program A) and Items B3.120 and B3.140 (Inspection Program B) of the 1998 Edition must be applied when using the 1999 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section. A visual examination with magnification that has a resolution sensitivity to detect a 1-mil width wire or crack, utilizing the allowable flaw length criteria in Table IWB–3512–1, 1997 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, with a limiting assumption on the flaw aspect ratio (i.e., a/l = 0.5), may be performed instead of an ultrasonic examination.

(B) [Reserved]

(xxii) *Section XI condition: Surface examination.* The use of the provision in IWA–2220, ''Surface Examination,'' of Section XI, 2001 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, that allows use of an ultrasonic examination method is prohibited.

(xxiii) *Section XI condition: Evaluation of thermally cut surfaces.* The use of the provisions for eliminating mechanical processing of thermally cut surfaces in IWA–4461.4.2 of Section XI, 2001 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, is prohibited.

(xxiv) *Section XI condition: Incorporation of the performance demonstration initiative and addition of ultrasonic examination criteria.* The use of Appendix VIII and the supplements to Appendix VIII and Article I–3000 of Section XI of the ASME BPV Code, 2002 Addenda through the 2006 Addenda, is prohibited.

(xxv) *Section XI condition: Mitigation of defects by modification.* The use of the provisions in IWA–4340, ''Mitigation of Defects by Modification,'' Section XI, 2001 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section are prohibited.

(xxvi) *Section XI condition: Pressure testing Class 1, 2 and 3 mechanical joints.* The repair and replacement activity provisions in IWA–4540(c) of the 1998 Edition of Section XI for pressure testing Class 1, 2, and 3 mechanical joints must be applied when using the 2001 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section.

(xxvii) *Section XI condition: Removal of insulation.* When performing visual examination in accordance with IWA–5242 of Section XI of the ASME BPV Code, 2003 Addenda through the 2006 Addenda, or IWA–5241 of the 2007 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, insulation must be removed from 17–4 PH or 410 stainless steel studs or bolts aged at a temperature below 1100 °F or having a Rockwell Method C hardness value above 30, and from A–286 stainless steel studs or bolts preloaded to 100,000 pounds per square inch or higher.

(xxviii) *Section XI condition: Analysis of flaws.* Licensees using ASME BPV Code, Section XI, Appendix A, must use the following conditions when implementing Equation (2) in A–4300(b)(1):

For $R < 0$, ΔK_I depends on the crack depth (a), and the flow stress (σ_f). The flow stress is defined by $\sigma_f = 1/2(\sigma_{ys} + \sigma_{ult})$, where σ_{ys} is the yield strength and σ_{ult} is the ultimate tensile strength in units ksi (MPa) and (a) is in units in. (mm). For $-2 \leq R \leq 0$ and $K_{max} - K_{min} \leq 0.8 \times 1.12\ \sigma_f\sqrt{(\pi a)}$, $S = 1$ and $\Delta K_I = K_{max}$. For $R < -2$ and $K_{max} - K_{min} \leq 0.8 \times 1.12\ \sigma_f\sqrt{(\pi a)}$, $S = 1$ and $\Delta K_I = (1 - R)\ K_{max}/3$. For $R < 0$ and $K_{max} - K_{min} > 0.8 \times 1.12\ \sigma_f\sqrt{(\pi a)}$, $S = 1$ and $\Delta K_I = K_{max} - K_{min}$.

(xxix) *Section XI condition: Nonmandatory Appendix R.* Nonmandatory Appendix R, ''Risk-Informed Inspection Requirements for Piping,'' of Section XI, 2005 Addenda through the latest edition and addenda incorporated by reference in paragraph (a)(1)(ii) of this section, may not be implemented without prior NRC authorization of the proposed alternative in accordance with paragraph (z) of this section.

(3) *Conditions on ASME OM Code.* As used in this section, references to the OM Code refer to the ASME Code for Operation and Maintenance of Nuclear Power Plants, Subsections ISTA, ISTB, ISTC, ISTD, Mandatory Appendices I and II, and Nonmandatory Appendices A through H and J, including the 1995 Edition through the 2006 Addenda, subject to the following conditions:

(i) *OM condition: Quality assurance.* When applying editions and addenda of the OM Code, the requirements of NQA–1, ''Quality Assurance Requirements for Nuclear Facilities,'' 1979 Addenda, are acceptable as permitted by ISTA 1.4 of the 1995 Edition through 1997 Addenda or ISTA–1500 of the 1998 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(iv) of this section, provided the licensee uses its 10 CFR part 50, Appendix B, quality assurance program in conjunction with the OM Code requirements. Commitments contained in the licensee's quality assurance program description that are more stringent than those contained in NQA–1 govern OM Code activities. If NQA–1 and the OM Code do not address the commitments contained in the licensee's Appendix B quality assurance program description, the commitments must be applied to OM Code activities.

(ii) *OM condition: Motor-Operated Valve (MOV) testing.* Licensees must comply with the provisions for MOV testing in OM Code ISTC 4.2, 1995 Edition with the 1996 and 1997 Addenda, or ISTC–3500, 1998 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(iv) of this section, and must establish a program to ensure that motor-operated valves continue to be capable of performing their design basis safety functions.

(iii) [Reserved]

(iv) *OM condition: Check valves (Appendix II).* Licensees applying Appendix II, ''Check Valve Condition Monitoring Program,'' of the OM Code, 1995 Edition with the 1996 and 1997 Addenda, must satisfy the requirements of (b)(3)(iv)(A) through (C) of this section. Licensees applying Appendix II, 1998 Edition through the 2002 Addenda, must satisfy the requirements of (b)(3)(iv)(A), (B), and (D) of this section.

(A) *Check valves: First provision.* Valve opening and closing functions must be demonstrated when flow testing or examination methods (nonintrusive, or disassembly and inspection) are used;

(B) *Check valves: Second provision.* The initial interval for tests and associated examinations may not exceed two fuel cycles or 3 years, whichever is longer; any extension of this interval may not exceed one fuel cycle per extension with the maximum interval not to exceed 10 years. Trending and evaluation of existing data must be used to reduce or extend the time interval between tests.

(C) *Check valves: Third provision.* If the Appendix II condition monitoring program is discontinued, then the requirements of ISTC 4.5.1 through 4.5.4 must be implemented.

(D) *Check valves: Fourth provision.* The applicable provisions of subsection ISTC must be implemented if the Appendix II condition monitoring program is discontinued.

(v) *OM condition: Snubbers ISTD.* Article IWF–5000, ''Inservice Inspection Requirements for Snubbers,'' of the ASME BPV Code, Section XI, must be used when performing inservice inspection examinations and tests of snubbers at nuclear power plants, except as conditioned in paragraphs (b)(3)(v)(A) and (B) of this section.

(A) *Snubbers: First provision.* Licensees may use Subsection ISTD, ''Preservice and Inservice Examination and Testing of Dynamic Restraints (Snubbers) in Light-Water Reactor Power Plants,'' ASME OM Code, 1995 Edition through the latest edition and addenda incorporated by reference in paragraph (a)(1)(iv) of this section, in place of the requirements for snubbers in the editions and addenda up to the 2005 Addenda of the ASME BPV Code, Section XI, IWF–5200(a) and (b) and IWF–5300(a) and (b), by making appropriate changes to their technical specifications or licensee-controlled documents. Preservice and inservice examinations must be performed using the VT–3 visual examination method described in IWA–2213.

(B) *Snubbers: Second provision.* Licensees must comply with the provisions for examining and testing snubbers in Subsection ISTD of the ASME OM Code and make appropriate changes to their technical specifications or licensee-controlled documents when using the 2006 Addenda and later editions and addenda of Section XI of the ASME BPV Code.

(vi) *OM condition: Exercise interval for manual valves.* Manual valves must be exercised on a 2-year interval rather than the 5-year interval specified in paragraph ISTC–3540 of the 1999 through the 2005 Addenda of the ASME OM Code, provided that adverse conditions do not require more frequent testing.

(4) *Conditions on Design, Fabrication, and Materials Code Cases.* Each manufacturing license, standard design approval, and design certification application under part 52 of this chapter is subject to the following conditions. Licensees may apply the ASME BPV Code Cases listed in NRC Regulatory Guide 1.84, Revision 36, without prior NRC approval, subject to the following conditions:

(i) *Design, Fabrication, and Materials Code Case condition: Applying Code Cases.* When an applicant or licensee initially applies a listed Code Case, the applicant or licensee must apply the most recent version of that Code Case incorporated by reference in paragraph (a) of this section.

(ii) *Design, Fabrication, and Materials Code Case condition: Applying different revisions of Code Cases.* If an applicant or licensee has previously applied a Code Case and a later version of the Code Case is incorporated by reference in paragraph (a) of this section, the applicant or licensee may continue to apply the previous version of the Code Case as authorized or may apply the later version of the Code Case, including any NRC-specified conditions placed on its use, until it updates its Code of Record for the component being constructed.

(iii) *Design, Fabrication, and Materials Code Case condition: Applying annulled Code Cases.* Application of an annulled Code Case is prohibited unless an applicant or licensee applied the listed Code Case prior to it being listed as annulled in Regulatory Guide 1.84. If an applicant or licensee has applied a listed Code Case that is later listed as annulled in Regulatory Guide 1.84, the applicant or licensee may continue to apply the Code Case until it updates its Code of Record for the component being constructed.

(5) *Conditions on inservice inspection Code Cases.* Licensees may apply the ASME BPV Code Cases listed in Regulatory Guide 1.147, Revision 17, without prior NRC approval, subject to the following:

(i) *ISI Code Case condition: Applying Code Cases.* When a licensee initially applies a listed Code Case, the licensee must apply the most recent version of that Code Case incorporated by reference in paragraph (a) of this section.

(ii) *ISI Code Case condition: Applying different revisions of Code Cases.* If a licensee has previously applied a Code Case and a later version of the Code Case is incorporated by reference in paragraph (a) of this section, the licensee may continue to apply, to the end of the current 120-month interval, the previous version of the Code Case, as authorized, or may apply the later version of the Code Case, including any NRC-specified conditions placed on its use. Licensees who choose to continue use of the Code Case during subsequent 120-month ISI program intervals will be required to implement the latest version incorporated by reference into 10 CFR 50.55a as listed in Tables 1 and 2 of Regulatory Guide 1.147, Revision 17.

(iii) *ISI Code Case condition: Applying annulled Code Cases.* Application of an annulled Code Case is prohibited unless a licensee previously applied the listed Code Case prior to it being listed as annulled in Regulatory Guide 1.147. If a licensee has applied a listed Code Case that is later listed as annulled in Regulatory Guide 1.147, the licensee may continue to apply the Code Case to the end of the current 120-month interval.

(6) *Conditions on Operation and Maintenance of Nuclear Power Plants Code Cases.* Licensees may apply the ASME Operation and Maintenance Code Cases listed in Regulatory Guide 1.192, Revision 1, without prior NRC approval, subject to the following:

(i) *OM Code Case condition: Applying Code Cases.* When a licensee initially applies a listed Code Case, the licensee must apply the most recent version of that Code Case incorporated by reference in paragraph (a) of this section.

(ii) *OM Code Case condition: Applying different revisions of Code Cases.* If a licensee has previously applied a Code Case and a later version of the Code Case is incorporated by reference in paragraph (a) of this section, the licensee may continue to apply, to the end of the current 120-month interval, the previous version of the Code Case, as authorized, or may apply the later version of the Code Case, including any NRC-specified conditions placed on its use. Licensees who choose to continue use of the Code Case during subsequent 120-month ISI program intervals will be required to implement the latest version incorporated by reference into 10 CFR 50.55a as listed in Tables 1 and 2 of Regulatory Guide 1.192, Revision 1.

(iii) *OM Code Case condition: Applying annulled Code Cases.* Application of an annulled Code Case is prohibited unless a licensee previously applied the listed Code Case prior to it being listed as annulled in Regulatory Guide 1.192. If a licensee has applied a listed Code Case that is later listed as annulled in Regulatory Guide 1.192, the licensee may continue to apply the Code Case to the end of the current 120-month interval.

(c) *Reactor coolant pressure boundary.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code as specified in this paragraph. Each manufacturing license, standard design approval, and design certification application under part 52 of this chapter and each combined license for a utilization facility is subject to the following conditions:

(1) *Standards requirement for reactor coolant pressure boundary components.* Components that are part of the reactor coolant pressure boundary must meet the requirements for Class 1 components in Section III[1,4] of the ASME BPV Code, except as provided in paragraphs (c)(2) through (4) of this section.

(2) *Exceptions to reactor coolant pressure boundary standards requirement.* Components that are connected to the reactor coolant system and are part of the reactor coolant pressure boundary as defined in § 50.2 need not meet the requirements of paragraph (c)(1) of this section, provided that:

(i) *Exceptions: Shutdown and cooling capability.* In the event of postulated failure of the component during normal reactor operation, the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system; or

(ii) *Exceptions: Isolation capability.* The component is or can be isolated from the reactor coolant system by two valves in series (both closed, both open, or one closed and the other open). Each open valve must be capable of automatic actuation and, assuming the other valve is open, its closure time must be such that, in the event of postulated failure of the component during normal reactor operation, each valve remains operable and the reactor can be shut down and cooled down in an orderly manner, assuming makeup is provided by the reactor coolant makeup system only.

(3) *Applicable Code and Code Cases and conditions on their use.* The Code edition, addenda, and optional ASME Code Cases to be applied to components of the reactor coolant pressure boundary must be determined by the provisions of paragraph NCA–1140, Subsection NCA of Section III of the ASME BPV Code, subject to the following conditions:

(i) *Reactor coolant pressure boundary condition: Code edition and addenda.* The edition and addenda applied to a component must be those that are incorporated by reference in paragraph (a)(1)(i) of this section;

(ii) *Reactor coolant pressure boundary condition: Earliest edition and addenda for pressure vessel.* The ASME Code provisions applied to the pressure vessel may be dated no earlier than the summer 1972 Addenda of the 1971 Edition;

(iii) *Reactor coolant pressure boundary condition: Earliest edition and addenda for piping, pumps, and valves.* The ASME Code provisions applied to piping, pumps, and valves may be dated no earlier than the Winter 1972 Addenda of the 1971 Edition; and

(iv) *Reactor coolant pressure boundary condition: Use of Code Cases.* The optional Code Cases applied to a component must be those listed in NRC Regulatory Guide 1.84 that is incorporated by reference in paragraph (a)(3)(i) of this section.

(4) *Standards requirement for components in older plants.* For a nuclear power plant whose construction permit was issued prior to May 14, 1984, the applicable Code edition and addenda for a component of the reactor coolant pressure boundary continue to be that Code edition and addenda that were required by Commission regulations for such a component at the time of issuance of the construction permit.

(d) *Quality Group B components.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code as specified in this paragraph. Each manufacturing license, standard design approval, and design certification application under part 52 of this chapter, and each combined license for a utilization facility is subject to the following conditions:

(1) *Standards requirement for Quality Group B components.* For a nuclear power plant whose application for a construction permit under this part, or a combined license or manufacturing license under part 52 of this chapter, docketed after May 14, 1984, or for an application for a standard design approval or a standard design certification docketed after May 14, 1984, components classified Quality Group B [7] must meet the requirements for Class 2 Components in Section III of the ASME BPV Code.

(2) *Quality Group B: Applicable Code and Code Cases and conditions on their use.* The Code edition, addenda, and optional ASME Code Cases to be applied to the systems and components identified in paragraph (d)(1) of this section must be determined by the rules of paragraph NCA–1140, Subsection NCA of Section III of the ASME BPV Code, subject to the following conditions:

(i) *Quality Group B condition: Code edition and addenda.* The edition and addenda must be those that are incorporated by reference in paragraph (a)(1)(i) of this section;

(ii) *Quality Group B condition: Earliest edition and addenda for components.* The ASME Code provisions applied to the systems and components may be dated no earlier than the 1980 Edition; and

(iii) *Quality Group B condition: Use of Code Cases.* The optional Code Cases must be those listed in NRC Regulatory Guide 1.84 that is incorporated by reference in paragraph (a)(3)(i) of this section.

(e) *Quality Group C components.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code as specified in this paragraph. Each manufacturing license, standard design approval, and design certification application under part 52 of this chapter and each combined license for a utilization facility is subject to the following conditions.

(1) *Standards requirement for Quality Group C components.* For a nuclear power plant whose application for a construction permit under this part, or a combined license or manufacturing license under part 52 of this chapter, docketed after May 14, 1984, or for an application for a standard design approval or a standard design certification docketed after May 14, 1984, components classified Quality Group C [9] must meet the requirements for Class 3 components in Section III of the ASME BPV Code.

(2) *Quality Group C applicable Code and Code Cases and conditions on their use.* The Code edition, addenda, and optional ASME Code Cases to be applied to the systems and components identified in paragraph (e)(1) of this section must be determined by the rules of paragraph NCA–1140, subsection NCA of Section III of the ASME BPV Code, subject to the following conditions:

(i) *Quality Group C condition: Code edition and addenda.* The edition and addenda must be those incorporated by reference in paragraph (a)(1)(i) of this section;

(ii) *Quality Group C condition: Earliest edition and addenda for components.* The ASME Code provisions applied to the systems and components may be dated no earlier than the 1980 Edition; and

(iii) *Quality Group C condition: Use of Code Cases.* The optional Code Cases must be those listed in NRC Regulatory Guide 1.84 that is incorporated by reference in paragraph (a)(3)(i) of this section.

(f) *Inservice testing requirements.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code and ASME Code for Operation and Maintenance of Nuclear Power Plants as specified in this paragraph. Each operating license for a boiling or pressurized water-cooled nuclear facility is subject to the following conditions. Each combined license for a boiling or pressurized water-cooled nuclear facility is subject to the following conditions, but the conditions in paragraphs (f)(4) through (6) of this section must be met only after the Commission makes the finding under § 52.103(g) of this chapter. Requirements for inservice inspection of Class 1, Class 2, Class 3, Class MC, and Class CC components (including their supports) are located in § 50.55a(g).

(1) *Inservice testing requirements for older plants (pre-1971 CPs).* For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued prior to January 1, 1971, pumps and valves must meet the test requirements of paragraphs (f)(4) and (5) of this section to the extent

practical. Pumps and valves that are part of the reactor coolant pressure boundary must meet the requirements applicable to components that are classified as ASME Code Class 1. Other pumps and valves that perform a function to shut down the reactor or maintain the reactor in a safe shutdown condition, mitigate the consequences of an accident, or provide overpressure protection for safety-related systems (in meeting the requirements of the 1986 Edition, or later, of the BPV or OM Code) must meet the test requirements applicable to components that are classified as ASME Code Class 2 or Class 3.

(2) *Design and accessibility requirements for performing inservice testing in plants with CPs issued between 1971 and 1974.* For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after January 1, 1971, but before July 1, 1974, pumps and valves that are classified as ASME Code Class 1 and Class 2 must be designed and provided with access to enable the performance of inservice tests for operational readiness set forth in editions and addenda of Section XI of the ASME BPV incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, or Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraphs (a)(3)(ii) and (iii) of this section, respectively) in effect 6 months before the date of issuance of the construction permit. The pumps and valves may meet the inservice test requirements set forth in subsequent editions of this Code and addenda that are incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17; or Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraphs (a)(3)(ii) and (iii) of this section, respectively), subject to the applicable conditions listed therein.

(3) *Design and accessibility requirements for performing inservice testing in plants with CPs issued after 1974.* For a boiling or pressurized water-cooled nuclear power facility whose construction permit under this part or design approval, design certification, combined license, or manufacturing license under part 52 of this chapter was issued on or after July 1, 1974:

(i)–(ii) [Reserved]

(iii) *IST design and accessibility requirements: Class 1 pumps and valves.* (A) *Class 1 pumps and valves: First provision.* In facilities whose construction permit was issued before November 22, 1999, pumps and valves that are classified as ASME Code Class 1 must be designed and provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in the editions and addenda of Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, or Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraphs (a)(3)(ii) and (iii) of this section, respectively) applied to the construction of the particular pump or valve or the summer 1973 Addenda, whichever is later.

(B) *Class 1 pumps and valves: Second provision.* In facilities whose construction permit under this part, or design certification, design approval, combined license, or manufacturing license under part 52 of this chapter, issued on or after November 22, 1999, pumps and valves that are classified as ASME Code Class 1 must be designed and provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in editions and addenda of the ASME OM Code (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraph (a)(3)(iii) of this section), incorporated by reference in paragraph (a)(1)(iv) of this section at the time the construction permit, combined license, manufacturing license, design certification, or design approval is issued.

(iv) *IST design and accessibility requirements: Class 2 and 3 pumps and valves.* (A) *Class 2 and 3 pumps and valves: First provision.* In facilities whose construction permit was issued before November 22, 1999, pumps and valves that are classified as ASME Code Class 2 and Class 3 must be designed and be provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in the editions and addenda of Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section) applied to the construction of the particular pump or valve or the Summer 1973 Addenda, whichever is later.

(B) *Class 2 and 3 pumps and valves: Second provision.* In facilities whose construction permit under this part, or design certification, design approval, combined license, or manufacturing license under part 52 of this chapter, issued on or after November 22, 1999, pumps and valves that are classified as ASME Code Class 2 and 3 must be designed and provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in editions and addenda of the ASME OM Code (or the optional ASME OM Code Cases listed in NRC Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraph (a)(3)(iii) of this section), incorporated by reference in paragraph (a)(1)(iv) of this section at the time the construction permit, combined license, or design certification is issued.

(v) *IST design and accessibility requirements: Meeting later IST requirements.* All pumps and valves may meet the test requirements set forth in subsequent editions of codes and addenda or portions thereof that are incorporated by reference in paragraph (a) of this section, subject to the conditions listed in paragraph (b) of this section.

(4) *Inservice testing standards requirement for operating plants.* Throughout the service life of a boiling or pressurized water-cooled nuclear power facility, pumps and valves that are classified as ASME Code Class 1, Class 2, and Class 3 must meet the inservice test requirements (except design and access provisions) set forth in the ASME OM Code and addenda that become effective subsequent to editions and addenda specified in paragraphs (f)(2) and (3) of this section and that are incorporated by reference in paragraph (a)(1)(iv) of this section, to the extent practical within the limitations of design, geometry, and materials of construction of the components.

(i) *Applicable IST Code: Initial 120-month interval.* Inservice tests to verify operational readiness of pumps and valves, whose function is required for safety, conducted during the initial 120-month interval must comply with the requirements in the latest edition and addenda of the OM Code incorporated by reference in paragraph (a)(1)(iv) of this section on the date 12 months before the date of issuance of the operating license under this part, or 12 months before the date scheduled for initial loading of fuel under a combined license under part 52 of this chapter (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.192, Revision 1, that is incorporated by reference in paragraph (a)(3)(iii) of this section,

subject to the conditions listed in paragraph (b) of this section).

(ii) *Applicable IST Code: Successive 120-month intervals.* Inservice tests to verify operational readiness of pumps and valves, whose function is required for safety, conducted during successive 120-month intervals must comply with the requirements of the latest edition and addenda of the OM Code incorporated by reference in paragraph (a)(1)(iv) of this section 12 months before the start of the 120-month interval (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, or Regulatory Guide 1.192, Revision 1, that are incorporated by reference in paragraphs (a)(3)(ii) and (iii) of this section, respectively), subject to the conditions listed in paragraph (b) of this section.

(iii) [Reserved]

(iv) *Applicable IST Code: Use of later Code editions and addenda.* Inservice tests of pumps and valves may meet the requirements set forth in subsequent editions and addenda that are incorporated by reference in paragraph (a)(1)(iv) of this section, subject to the conditions listed in paragraph (b) of this section, and subject to NRC approval. Portions of editions or addenda may be used, provided that all related requirements of the respective editions or addenda are met.

(5) *Requirements for updating IST programs*—(i) *IST program update: Applicable IST Code editions and addenda.* The inservice test program for a boiling or pressurized water-cooled nuclear power facility must be revised by the licensee, as necessary, to meet the requirements of paragraph (f)(4) of this section.

(ii) *IST program update: Conflicting IST Code requirements with technical specifications.* If a revised inservice test program for a facility conflicts with the technical specifications for the facility, the licensee must apply to the Commission for amendment of the technical specifications to conform the technical specifications to the revised program. The licensee must submit this application, as specified in § 50.4, at least 6 months before the start of the period during which the provisions become applicable, as determined by paragraph (f)(4) of this section.

(iii) *IST program update: Notification of impractical IST Code requirements.* If the licensee has determined that conformance with certain Code requirements is impractical for its facility, the licensee must notify the Commission and submit, as specified in § 50.4, information to support the determination.

(iv) *IST program update: Schedule for completing impracticality determinations.* Where a pump or valve test requirement by the Code or addenda is determined to be impractical by the licensee and is not included in the revised inservice test program (as permitted by paragraph (f)(4) of this section), the basis for this determination must be submitted for NRC review and approval not later than 12 months after the expiration of the initial 120-month interval of operation from the start of facility commercial operation and each subsequent 120-month interval of operation during which the test is determined to be impractical.

(6) *Actions by the Commission for evaluating impractical and augmented IST Code requirements*—(i) *Impractical IST requirements: Granting of relief.* The Commission will evaluate determinations under paragraph (f)(5) of this section that code requirements are impractical. The Commission may grant relief and may impose such alternative requirements as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest, giving due consideration to the burden upon the licensee that could result if the requirements were imposed on the facility.

(ii) *Augmented IST requirements.* The Commission may require the licensee to follow an augmented inservice test program for pumps and valves for which the Commission deems that added assurance of operational readiness is necessary.

(g) *Inservice inspection requirements.* Systems and components of boiling and pressurized water-cooled nuclear power reactors must meet the requirements of the ASME BPV Code as specified in this paragraph. Each operating license for a boiling or pressurized water-cooled nuclear facility is subject to the following conditions. Each combined license for a boiling or pressurized water-cooled nuclear facility is subject to the following conditions, but the conditions in paragraphs (g)(4) through (6) of this section must be met only after the Commission makes the finding under § 52.103(g) of this chapter. Requirements for inservice testing of Class 1, Class 2, and Class 3 pumps and valves are located in § 50.55a(f).

(1) *Inservice inspection requirements for older plants (pre-1971 CPs).* For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued before January 1, 1971, components (including supports) must meet the requirements of paragraphs (g)(4) and (g)(5) of this section to the extent practical. Components that are part of the reactor coolant pressure boundary and their supports must meet the requirements applicable to components that are classified as ASME Code Class 1. Other safety-related pressure vessels, piping, pumps and valves, and their supports must meet the requirements applicable to components that are classified as ASME Code Class 2 or Class 3.

(2) *Design and accessibility requirements for performing inservice inspection in plants with CPs issued between 1971 and 1974.* For a boiling or pressurized water-cooled nuclear power facility whose construction permit was issued on or after January 1, 1971, but before July 1, 1974, components (including supports) that are classified as ASME Code Class 1 and Class 2 must be designed and be provided with access to enable the performance of inservice examination of such components (including supports) and must meet the preservice examination requirements set forth in editions and addenda of Section III or Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section) in effect 6 months before the date of issuance of the construction permit. The components (including supports) may meet the requirements set forth in subsequent editions and addenda of this Code that are incorporated by reference in paragraph (a) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section), subject to the applicable limitations and modifications.

(3) *Design and accessibility requirements for performing inservice inspection in plants with CPs issued after 1974.* For a boiling or pressurized water-cooled nuclear power facility, whose construction permit under this part, or design certification, design approval, combined license, or manufacturing license under part 52 of this chapter, was issued on or after July 1, 1974, the following are required:

(i) *ISI design and accessibility requirements: Class 1 components and supports.* Components (including supports) that are classified as ASME Code Class 1 must be designed and be provided with access to enable the performance of inservice examination of these components and must meet the preservice examination requirements set forth in the editions and addenda of Section III or Section XI of the ASME

BPV Code incorporated by reference in paragraph (a)(1) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section) applied to the construction of the particular component.

(ii) *ISI design and accessibility requirements: Class 2 and 3 components and supports.* Components that are classified as ASME Code Class 2 and Class 3 and supports for components that are classified as ASME Code Class 1, Class 2, and Class 3 must be designed and provided with access to enable the performance of inservice examination of these components and must meet the preservice examination requirements set forth in the editions and addenda of Section XI of the ASME BPV Code incorporated by reference in paragraph (a)(1)(ii) of this section (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, that are incorporated by reference in paragraph (a)(3)(ii) of this section) applied to the construction of the particular component.

(iii)–(iv) [Reserved]

(v) *ISI design and accessibility requirements: Meeting later ISI requirements.* All components (including supports) may meet the requirements set forth in subsequent editions of codes and addenda or portions thereof that are incorporated by reference in paragraph (a) of this section, subject to the conditions listed therein.

(4) *Inservice inspection standards requirement for operating plants.* Throughout the service life of a boiling or pressurized water-cooled nuclear power facility, components (including supports) that are classified as ASME Code Class 1, Class 2, and Class 3 must meet the requirements, except design and access provisions and preservice examination requirements, set forth in Section XI of editions and addenda of the ASME BPV Code (or ASME OM Code for snubber examination and testing) that become effective subsequent to editions specified in paragraphs (g)(2) and (3) of this section and that are incorporated by reference in paragraph (a)(1)(ii) or (iv) for snubber examination and testing of this section, to the extent practical within the limitations of design, geometry, and materials of construction of the components. Components that are classified as Class MC pressure retaining components and their integral attachments, and components that are classified as Class CC pressure retaining components and their integral attachments, must meet the requirements, except design and access provisions and preservice examination requirements, set forth in Section XI of the ASME BPV Code and addenda that are incorporated by reference in paragraph (a)(1)(ii) of this section, subject to the condition listed in paragraph (b)(2)(vi) of this section and the conditions listed in paragraphs (b)(2)(viii) and (ix) of this section, to the extent practical within the limitation of design, geometry, and materials of construction of the components.

(i) *Applicable ISI Code: Initial 120-month interval.* Inservice examination of components and system pressure tests conducted during the initial 120-month inspection interval must comply with the requirements in the latest edition and addenda of the Code incorporated by reference in paragraph (a) of this section on the date 12 months before the date of issuance of the operating license under this part, or 12 months before the date scheduled for initial loading of fuel under a combined license under part 52 of this chapter (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, when using Section XI, or Regulatory Guide 1.192, Revision 1, when using the OM Code, that are incorporated by reference in paragraphs (a)(3)(ii) and (iii) of this section, respectively), subject to the conditions listed in paragraph (b) of this section.

(ii) *Applicable ISI Code: Successive 120-month intervals.* Inservice examination of components and system pressure tests conducted during successive 120-month inspection intervals must comply with the requirements of the latest edition and addenda of the Code incorporated by reference in paragraph (a) of this section 12 months before the start of the 120-month inspection interval (or the optional ASME Code Cases listed in NRC Regulatory Guide 1.147, Revision 17, when using Section XI, or Regulatory Guide 1.192, Revision 1, when using the OM Code, that are incorporated by reference in paragraphs (a)(3)(ii) and (iii) of this section), subject to the conditions listed in paragraph (b) of this section. However, a licensee whose inservice inspection interval commences during the 12 through 18-month period after July 21, 2011, may delay the update of their Appendix VIII program by up to 18 months after July 21, 2011.

(iii) *Applicable ISI Code: Optional surface examination requirement.* When applying editions and addenda prior to the 2003 Addenda of Section XI of the ASME BPV Code, licensees may, but are not required to, perform the surface examinations of high-pressure safety injection systems specified in Table IWB–2500–1, Examination Category B–J, Item Numbers B9.20, B9.21, and B9.22.

(iv) *Applicable ISI Code: Use of subsequent Code editions and addenda.* Inservice examination of components and system pressure tests may meet the requirements set forth in subsequent editions and addenda that are incorporated by reference in paragraph (a) of this section, subject to the conditions listed in paragraph (b) of this section, and subject to Commission approval. Portions of editions or addenda may be used, provided that all related requirements of the respective editions or addenda are met.

(v) *Applicable ISI Code: Metal and concrete containments.* For a boiling or pressurized water-cooled nuclear power facility whose construction permit under this part or combined license under part 52 of this chapter was issued after January 1, 1956, the following are required:

(A) *Metal and concrete containments: First provision.* Metal containment pressure retaining components and their integral attachments must meet the inservice inspection, repair, and replacement requirements applicable to components that are classified as ASME Code Class MC;

(B) *Metal and concrete containments: Second provision.* Metallic shell and penetration liners that are pressure retaining components and their integral attachments in concrete containments must meet the inservice inspection, repair, and replacement requirements applicable to components that are classified as ASME Code Class MC; and

(C) *Metal and concrete containments: Third provision.* Concrete containment pressure retaining components and their integral attachments, and the post-tensioning systems of concrete containments, must meet the inservice inspections, repair, and replacement requirements applicable to components that are classified as ASME Code Class CC.

(5) *Requirements for updating ISI programs*—(i) *ISI program update: Applicable ISI Code editions and addenda.* The inservice inspection program for a boiling or pressurized water-cooled nuclear power facility must be revised by the licensee, as necessary, to meet the requirements of paragraph (g)(4) of this section.

(ii) *ISI program update: Conflicting ISI Code requirements with technical specifications.* If a revised inservice inspection program for a facility conflicts with the technical specifications for the facility, the licensee must apply to the Commission

for amendment of the technical specifications to conform the technical specifications to the revised program. The licensee must submit this application, as specified in § 50.4, at least six months before the start of the period during which the provisions become applicable, as determined by paragraph (g)(4) of this section.

(iii) *ISI program update: Notification of impractical ISI Code requirements.* If the licensee has determined that conformance with a Code requirement is impractical for its facility the licensee must notify the NRC and submit, as specified in § 50.4, information to support the determinations. Determinations of impracticality in accordance with this section must be based on the demonstrated limitations experienced when attempting to comply with the Code requirements during the inservice inspection interval for which the request is being submitted. Requests for relief made in accordance with this section must be submitted to the NRC no later than 12 months after the expiration of the initial or subsequent 120-month inspection interval for which relief is sought.

(iv) *ISI program update: Schedule for completing impracticality determinations.* Where the licensee determines that an examination required by Code edition or addenda is impractical, the basis for this determination must be submitted for NRC review and approval not later than 12 months after the expiration of the initial or subsequent 120-month inspection interval for which relief is sought.

(6) *Actions by the Commission for evaluating impractical and augmented ISI Code requirements*—(i) *Impractical ISI requirements: Granting of relief.* The Commission will evaluate determinations under paragraph (g)(5) of this section that code requirements are impractical. The Commission may grant such relief and may impose such alternative requirements as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest giving due consideration to the burden upon the licensee that could result if the requirements were imposed on the facility.

(ii) *Augmented ISI program.* The Commission may require the licensee to follow an augmented inservice inspection program for systems and components for which the Commission deems that added assurance of structural reliability is necessary.

(A) [Reserved]

(B) *Augmented ISI requirements: Submitting containment ISI programs.* Licensees do not have to submit to the NRC for approval of their containment inservice inspection programs that were developed to satisfy the requirements of Subsection IWE and Subsection IWL with specified conditions. The program elements and the required documentation must be maintained on site for audit.

(C) *Augmented ISI requirements: Implementation of Appendix VIII to Section XI.* (*1*) Appendix VIII and the supplements to Appendix VIII to Section XI, Division 1, 1995 Edition with the 1996 Addenda of the ASME BPV Code must be implemented in accordance with the following schedule: Appendix VIII and Supplements 1, 2, 3, and 8—May 22, 2000; Supplements 4 and 6—November 22, 2000; Supplement 11—November 22, 2001; and Supplements 5, 7, and 10—November 22, 2002.

(*2*) Licensees implementing the 1989 Edition and earlier editions and addenda of IWA–2232 of Section XI, Division 1, of the ASME BPV Code must implement the 1995 Edition with the 1996 Addenda of Appendix VIII and the supplements to Appendix VIII of Section XI, Division 1, of the ASME BPV Code.

(D) *Augmented ISI requirements: Reactor vessel head inspections*—(*1*) All licensees of pressurized water reactors must augment their inservice inspection program with ASME Code Case N–729–1, subject to the conditions specified in paragraphs (g)(6)(ii)(D)(*2*) through (*6*) of this section. Licensees of existing operating reactors as of September 10, 2008, must implement their augmented inservice inspection program by December 31, 2008. Once a licensee implements this requirement, the First Revised NRC Order EA–03–009 no longer applies to that licensee and shall be deemed to be withdrawn.

(*2*) Note 9 of ASME Code Case N–729–1 must not be implemented.

(*3*) Instead of the specified ''examination method'' requirements for volumetric and surface examinations in Note 6 of Table 1 of Code Case N–729–1, the licensee must perform volumetric and/or surface examination of essentially 100 percent of the required volume or equivalent surfaces of the nozzle tube, as identified by Figure 2 of ASME Code Case N–729–1. A demonstrated volumetric or surface leak path assessment through all J-groove welds must be performed. If a surface examination is being substituted for a volumetric examination on a portion of a penetration nozzle that is below the toe of the J-groove weld [Point E on Figure 2 of ASME Code Case N–729–1], the surface examination must be of the inside and outside wetted surface of the penetration nozzle not examined volumetrically.

(*4*) By September 1, 2009, ultrasonic examinations must be performed using personnel, procedures, and equipment that have been qualified by blind demonstration on representative mockups using a methodology that meets the conditions specified in paragraphs (g)(6)(ii)(D)(*4*)(*i*) through (*iv*), instead of the qualification requirements of Paragraph –2500 of ASME Code Case N–729–1. References herein to Section XI, Appendix VIII, must be to the 2004 Edition with no addenda of the ASME BPV Code.

(*i*) The specimen set must have an applicable thickness qualification range of +25 percent to −40 percent for nominal depth through-wall thickness. The specimen set must include geometric and material conditions that normally require discrimination from primary water stress corrosion cracking (PWSCC) flaws.

(*ii*) The specimen set must have a minimum of ten (10) flaws that provide an acoustic response similar to PWSCC indications. All flaws must be greater than 10 percent of the nominal pipe wall thickness. A minimum of 20 percent of the total flaws must initiate from the inside surface and 20 percent from the outside surface. At least 20 percent of the flaws must be in the depth ranges of 10–30 percent through-wall thickness and at least 20 percent within a depth range of 31–50 percent through-wall thickness. At least 20 percent and no more than 60 percent of the flaws must be oriented axially.

(*iii*) Procedures must identify the equipment and essential variables and settings used for the qualification, in accordance with Subarticle VIII–2100 of Section XI, Appendix VIII. The procedure must be requalified when an essential variable is changed outside the demonstration range as defined by Subarticle VIII–3130 of Section XI, Appendix VIII, and as allowed by Articles VIII–4100, VIII–4200, and VIII–4300 of Section XI, Appendix VIII. Procedure qualification must include the equivalent of at least three personnel performance demonstration test sets. Procedure qualification requires at least one successful personnel performance demonstration.

(*iv*) Personnel performance demonstration test acceptance criteria must meet the personnel performance demonstration detection test acceptance criteria of Table VIII—S10–1 of Section XI, Appendix VIII, Supplement 10. Examination procedures, equipment,

and personnel are qualified for depth sizing and length sizing when the RMS error, as defined by Subarticle VIII–3120 of Section XI, Appendix VIII, of the flaw depth measurements, as compared to the true flaw depths, do not exceed ⅛ inch (3 mm) and the root mean square (RMS) error of the flaw length measurements, as compared to the true flaw lengths, do not exceed ⅜ inch (10 mm), respectively.

(*5*) If flaws attributed to PWSCC have been identified, whether acceptable or not for continued service under Paragraphs –3130 or –3140 of ASME Code Case N–729–1, the re-inspection interval must be each refueling outage instead of the re-inspection intervals required by Table 1, Note (8), of ASME Code Case N–729–1.

(*6*) Appendix I of ASME Code Case N–729–1 must not be implemented without prior NRC approval.

(E) *Augmented ISI requirements: Reactor coolant pressure boundary visual inspections* [10]—(*1*) All licensees of pressurized water reactors must augment their inservice inspection program by implementing ASME Code Case N–722–1, subject to the conditions specified in paragraphs (g)(6)(ii)(E)(*2*) through (*4*) of this section. The inspection requirements of ASME Code Case N–722–1 do not apply to components with pressure retaining welds fabricated with Alloy 600/82/182 materials that have been mitigated by weld overlay or stress improvement.

(*2*) If a visual examination determines that leakage is occurring from a specific item listed in Table 1 of ASME Code Case N–722–1 that is not exempted by the ASME Code, Section XI, IWB–1220(b)(1), additional actions must be performed to characterize the location, orientation, and length of a crack or cracks in Alloy 600 nozzle wrought material and location, orientation, and length of a crack or cracks in Alloy 82/182 butt welds. Alternatively, licensees may replace the Alloy 600/82/182 materials in all the components under the item number of the leaking component.

(*3*) If the actions in paragraph (g)(6)(ii)(E)(*2*) of this section determine that a flaw is circumferentially oriented and potentially a result of primary water stress corrosion cracking, licensees must perform non-visual NDE inspections of components that fall under that ASME Code Case N–722–1 item number. The number of components inspected must equal or exceed the number of components found to be leaking under that item number. If circumferential cracking is identified in the sample, non-visual NDE must be performed in the remaining components under that item number.

(*4*) If ultrasonic examinations of butt welds are used to meet the NDE requirements in paragraphs (g)(6)(ii)(E)(*2*) or (*3*) of this section, they must be performed using the appropriate supplement of Section XI, Appendix VIII, of the ASME BPV Code.

(F) *Augmented ISI requirements: Examination requirements for Class 1 piping and nozzle dissimilar-metal butt welds*—(*1*) Licensees of existing, operating pressurized-water reactors as of July 21, 2011, must implement the requirements of ASME Code Case N–770–1, subject to the conditions specified in paragraphs (g)(6)(ii)(F)(*2*) through (*10*) of this section, by the first refueling outage after August 22, 2011.

(*2*) Full structural weld overlays authorized by the NRC staff may be categorized as Inspection Items C or F, as appropriate. Welds that have been mitigated by the Mechanical Stress Improvement Process (MSIP™) may be categorized as Inspection Items D or E, as appropriate, provided the criteria in Appendix I of the Code Case have been met. For ISI frequencies, all other butt welds that rely on Alloy 82/182 for structural integrity must be categorized as Inspection Items A–1, A–2 or B until the NRC staff has reviewed the mitigation and authorized an alternative Code Case Inspection Item for the mitigated weld, or until an alternative Code Case Inspection Item is used based on conformance with an ASME mitigation Code Case endorsed in Regulatory Guide 1.147 with conditions, if applicable, and incorporated by reference in this section.

(*3*) Baseline examinations for welds in Table 1, Inspection Items A–1, A–2, and B, must be completed by the end of the next refueling outage after January 20, 2012. Previous examinations of these welds can be credited for baseline examinations if they were performed within the re-inspection period for the weld item in Table 1 using Section XI, Appendix VIII, requirements and met the Code required examination volume of essentially 100 percent. Other previous examinations that do not meet these requirements can be used to meet the baseline examination requirement, provided NRC approval of alternative inspection requirements in accordance with paragraphs (z)(1) or (2) of this section is granted prior to the end of the next refueling outage after January 20, 2012.

(*4*) The axial examination coverage requirements of Paragraph—2500(c) may not be considered to be satisfied unless essentially 100 percent coverage is achieved.

(*5*) All hot-leg operating temperature welds in Inspection Items G, H, J, and K must be inspected each inspection interval. A 25 percent sample of Inspection Items G, H, J, and K cold-leg operating temperature welds must be inspected whenever the core barrel is removed (unless it has already been inspected within the past 10 years) or 20 years, whichever is less.

(*6*) For any mitigated weld whose volumetric examination detects growth of existing flaws in the required examination volume that exceed the previous IWB–3600 flaw evaluations or new flaws, a report summarizing the evaluation, along with inputs, methodologies, assumptions, and causes of the new flaw or flaw growth is to be provided to the NRC prior to the weld being placed in service other than modes 5 or 6.

(*7*) For Inspection Items G, H, J, and K, when applying the acceptance standards of ASME BPV Code, Section XI, IWB–3514, for planar flaws contained within the inlay or onlay, the thickness ''t'' in IWB–3514 is the thickness of the inlay or onlay. For planar flaws in the balance of the dissimilar metal weld examination volume, the thickness ''t'' in IWB–3514 is the combined thickness of the inlay or onlay and the dissimilar metal weld.

(*8*) Welds mitigated by optimized weld overlays in Inspection Items D and E are not permitted to be placed into a population to be examined on a sample basis and must be examined once each inspection interval.

(*9*) Replace the first two sentences of Extent and Frequency of Examination for Inspection Item D in Table 1 of Code Case N–770–1 with, ''Examine all welds no sooner than the third refueling outage and no later than 10 years following stress improvement application.'' Replace the first two sentences of Note (11)(b)(2) in Code Case N–770–1 with, ''The first examination following weld inlay, onlay, weld overlay, or stress improvement for Inspection Items D through K must be performed as specified.''

(*10*) General Note (b) to Figure 5(a) of Code Case N–770–1 pertaining to alternative examination volume for optimized weld overlays may not be applied unless NRC approval is authorized under paragraphs (z)(1) or (2) of this section.

(h) *Protection and safety systems.* Protection systems of nuclear power reactors of all types must meet the requirements specified in this paragraph. Each combined license for a utilization facility is subject to the following conditions.

(1) [Reserved]

(2) *Protection systems.* For nuclear power plants with construction permits issued after January 1, 1971, but before May 13, 1999, protection systems must meet the requirements stated in either IEEE Std. 279, ''Criteria for Protection Systems for Nuclear Power Generating Stations,'' or in IEEE Std. 603–1991, ''Criteria for Safety Systems for Nuclear Power Generating Stations,'' and the correction sheet dated January 30, 1995. For nuclear power plants with construction permits issued before January 1, 1971, protection systems must be consistent with their licensing basis or may meet the requirements of IEEE Std. 603–1991 and the correction sheet dated January 30, 1995.

(3) *Safety systems.* Applications filed on or after May 13, 1999, for construction permits and operating licenses under this part, and for design approvals, design certifications, and combined licenses under part 52 of this chapter, must meet the requirements for safety systems in IEEE Std. 603–1991 and the correction sheet dated January 30, 1995.

(i)–(y) [Reserved]

(z) *Alternatives to codes and standards requirements.* Alternatives to the requirements of paragraphs (b) through (h) of this section or portions thereof may be used when authorized by the Director, Office of Nuclear Reactor Regulation, or Director, Office of New Reactors, as appropriate. A proposed alternative must be submitted and authorized prior to implementation. The applicant or licensee must demonstrate that:

(1) *Acceptable level of quality and safety.* The proposed alternative would provide an acceptable level of quality and safety; or

(2) *Hardship without a compensating increase in quality and safety.* Compliance with the specified requirements of this section would result in hardship or unusual difficulty without a compensating increase in the level of quality and safety. Footnotes to § 50.55a:

[1] USAS and ASME Code addenda issued prior to the winter 1977 Addenda are considered to be ''in effect'' or ''effective'' 6 months after their date of issuance and after they are incorporated by reference in paragraph (a) of this section. Addenda to the ASME Code issued after the summer 1977 Addenda are considered to be ''in effect'' or ''effective'' after the date of publication of the addenda and after they are incorporated by reference in paragraph (a) of this section.

[2–3] [Reserved].

[4] For ASME Code editions and addenda issued prior to the winter 1977 Addenda, the Code edition and addenda applicable to the component is governed by the order or contract date for the component, not the contract date for the nuclear energy system. For the winter 1977 Addenda and subsequent editions and addenda the method for determining the applicable Code editions and addenda is contained in Paragraph NCA 1140 of Section III of the ASME Code.

[5–6] [Reserved].

[7] Guidance for quality group classifications of components that are to be included in the safety analysis reports pursuant to § 50.34(a) and § 50.34(b) may be found in Regulatory Guide 1.26, ''Quality Group Classifications and Standards for Water-, Steam-, and Radiological-Waste-Containing Components of Nuclear Power Plants,'' and in Section 3.2.2 of NUREG–0800, ''Standard Review Plan for Review of Safety Analysis Reports for Nuclear Power Plants.''

[8–9] [Reserved].

[10] For inspections to be conducted once per interval, the inspections must be performed in accordance with the schedule in Section XI, paragraph IWB–2400, except for plants with inservice inspection programs based on a Section XI edition or addenda prior to the 1994 Addenda. For plants with inservice inspection programs based on a Section XI edition or addenda prior to the 1994 Addenda, the inspection must be performed in accordance with the schedule in Section XI, paragraph IWB–2400, of the 1994 Addenda.

Dated at Rockville, Maryland, this 11th day of August 2014.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–25491 Filed 11–4–14; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL REGISTER

Vol. 79 Wednesday,

No. 214 November 5, 2014

Part III

Department of Defense

Defense Acquisition Regulations System

48 CFR Parts 212, 225, and 252

Defense Federal Acquisition Regulation Supplement: Clauses With Alternates—Foreign Acquisition (DFARS Case 2013–D005); Final Rule

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 225, and 252

RIN 0750–AH94

Defense Federal Acquisition Regulation Supplement: Clauses With Alternates—Foreign Acquisition (DFARS Case 2013–D005)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to create separate prescriptions for the basic clause as well as each alternate in each set of foreign acquisition-related provisions/clauses with one or more alternates. In addition, the rule includes the full text of each provision or clause alternate.

DATES: Effective November 5, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 8387 on February 12, 2014, to revise the presentation of the DFARS part 225 clauses with alternates and their prescriptions. An umbrella prescription is provided for the elements common to the basic clause and the alternate. The specific prescriptions for the basic clause and the alternate address the requirements for their use that enable the selection of the basic or the alternate clause. The full text of each provision and clause alternate is also included in the regulation.

II. Discussion and Analysis

No public comments were submitted in response to the proposed rule. Although DFARS part 225 contains eight solicitation provisions and clauses that have, or are, alternates, the proposed rule only addressed six. The other two were to have been revised in another DFARS case; however, that case was cancelled before publication. This final rule includes these two clauses, 252.225–7044 and 252.225–7045, to reformat them to conform to the new structure paradigm for clauses with alternates. Additionally, some other minor wording changes are made for clarity and consistency in presentation of the clauses and provisions.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the format, not the substance, of prescriptions for provisions and clauses with alternates, and include the full text of each provision or clause in each alternate. The rule creates an overarching prescription for each set of provisions/clauses with one or more alternates. The overarching prescription is intended to include the common requirements for the use of that provision/clause set.

This rule facilitates use of automated contract writing systems by revising the prescription format for DFARS provisions/clauses that have one or more alternates. This rule revises the prescription format so that there is an overarching prescription that covers the elements that the basic provision/clause and all its alternates have in common. A separate prescription is provided for use of the basic prescription/clause and each alternate. In addition, each alternate provision/clause is presented in full text, not just the paragraph or section that is different from the basic provision/clause. This makes the terms of a provision or clause alternate clearer to offerors, as well as to DoD contracting officers, because all paragraph substitutions will have already been made. Inapplicable paragraphs from the basic provision/clause that are superseded by the alternate will not be included in the solicitation or contract to prevent confusion.

No comments were received from the public in response to the initial regulatory flexibility analysis.

Potential offerors, including small businesses, initially may be affected by this rule by seeing an unfamiliar format for provision/clause alternates in solicitations and contracts issued by DoD contracting activities. DoD awarded an average of 270,000 contract actions (excluding modifications and orders) in Fiscal Year 2012, of which an average of 180,000 (67%) were awarded to about 35,000 unique small business entities. It is unknown as to how many of these contracts were awarded that included an alternate to a DFARS provision or clause. Nothing substantive will change in solicitations or contracts for potential offerors, and only the appearance of how the provision/clause alternates are presented in solicitations and contracts will be changed. This rule may result in potential offerors, including small businesses, expending more time to become familiar with and to understand the new format of provision/clause alternates in full text contained in contracts issued by any DoD contracting activity. The rule also anticipates saving contractors' time by making all paragraph substitutions from the basic clause and by not requiring offerors to read inapplicable paragraphs contained in the basic provisions/clauses where alternates are also included in the solicitations and contracts. The overall burden caused by this rule is expected to be negligible and will not be any greater on small businesses than it is on large businesses.

This rule does not add any new information collection, reporting, or recording keeping requirements. No alternatives were determined that will accomplish the objectives of the rule.

V. Paperwork Reduction Act

The rule does not contain any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 212, 225, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 225, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 225, and 252 continues to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Amend section 212.301 by—
■ a. Revising paragraphs (f)(xxiii) and (xxiv);
■ b. In paragraph (f)(xxxiii)(A), removing the comma and adding a period in its place;
■ c. In paragraph (f)(xxxiii)(B), removing ''Use the provision with its Alternate I'' and adding ''Use the alternate I provision'' in its place;
■ d. In paragraph (f)(xxxiv), introductory text, adding a comma after ''Trade Agreements'';
■ e. In paragraph (f)(xxxiv)(B), removing ''Use the clause with its Alternate II'' and adding ''Use the alternate II clause'' in its place, and removing ''225.1101(6)(iii)'' and adding ''225.1101(6)(ii)'' in its place;
■ f. Revising paragraphs (f)(xlii)(B) through (F);
■ g. Revising paragraphs (f)(xliii)(B) through (F).

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * *

(xxiii) Use the provision at 252.225–7000, Buy American—Balance of Payments Program Certificate, to comply with 41 U.S.C. chapter 83 and Executive Order 10582 of December 17, 1954, Prescribing Uniform Procedures for Certain Determinations Under the Buy-American Act.

(A) Use the basic provision as prescribed in 225.1101(1)(i).

(B) Use the alternate I provision as prescribed in 225.1101(1)(ii).

(xxiv) Use the clause at 252.225–7001, Buy American and Balance of Payments Program, to comply with 41 U.S.C. chapter 83 and Executive Order 10582 of December 17, 1954, Prescribing Uniform Procedures for Certain Determinations Under the Buy-American Act.

(A) Use the basic clause as prescribed in 225.1101(2)(ii).

(B) Use the alternate I clause as prescribed in 225.1101(2)(iii).

* * * * *

(xlii) * * *

(B) Use the alternate I provision as prescribed in 225.1101(9)(ii).

(C) Use the alternate II provision as prescribed in 225.1101(9)(iii).

(D) Use the alternate III provision as prescribed in 225.1101(9)(iv).

(E) Use the alternate IV provision as prescribed in 225.1101(9)(v).

(F) Use the alternate V provision as prescribed in 225.1101(9)(vi).

(xliii) * * *

(B) Use the alternate I clause as prescribed in 225.1101(10)(i)(B).

(C) Use the alternate II clause as prescribed in 225.1101(10)(i)(C).

(D) Use the alternate III clause as prescribed in 225.1101(10)(i)(D).

(E) Use the alternate IV clause as prescribed in 225.1101(10)(i)(E).

(F) Use the alternate V clause as prescribed in 225.1101(10)(i)(F).

* * * * *

PART 225—FOREIGN ACQUISITION

■ 3. Amend section 225.1101 by—
■ a. Revising paragraph (1);
■ b. In paragraph (2)(i) introductory text, removing the phrase ''Use the clause'' and adding ''Use the basic or the alternate of the clause'' in its place;
■ c. Revising paragraph (2)(i)(B);
■ d. In paragraph (2)(i)(D) introductory text, removing ''One or both of the following clauses'' and adding ''One or more of the basic or the alternates of the following clauses'' in its place;
■ e. Redesignating paragraph (2)(ii) as paragraph (2)(iii), and adding a new paragraph (2)(ii);
■ f. Revising the newly redesignated paragraph (2)(iii);
■ g. In paragraph (3) introductory text, removing the phrase ''that include one of the following clauses:'' and adding ''that include the basic or one of the alternates of the following clauses:'' in its place;
■ h. Revising paragraph (5);
■ i. Redesignating paragraph (6)(i) as paragraph (6) introductory text, revising the newly redesignated paragraph (6) introductory text, and adding a new paragraph (6)(i);
■ j. Revising paragraph (6)(ii);
■ k. Revising paragraph (6)(iii) introductory text;
■ l. Revising paragraph (9);
■ m. Revising paragraph (10)(i); and
■ n. Revising paragraph (10)(ii) introductory text.

The revisions and additions read as follows:

225.1101 Acquisition of supplies.

(1) Use the basic or the alternate of the provision at 252.225–7000, Buy American—Balance of Payments Program Certificate, instead of the provision at FAR 52.225–2, Buy American Certificate, in any solicitation, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that includes the basic or the alternate of the clause at 252.225–7001, Buy American and Balance of Payments Program. If the solicitation includes the provision at FAR 52.204–7, do not separately list the provision 252.225–7000 in the solicitation.

(i) Use the basic provision when the solicitation includes the basic clause at 252.225–7001.

(ii) Use the alternate I provision when the solicitation includes alternate I of the clause at 252.225–7001.

(2)(i) * * *

(B) All line items require domestic or qualifying country end products in accordance with subpart 225.70, but note that this exception does not apply if subpart 225.70 only requires manufacture of the end product in the United States or in the United States or Canada, without a corresponding requirement for use of domestic components;

* * * * *

(ii) Use the basic clause if the acquisition is not of end products listed in 225.401–70 in support of operations in Afghanistan.

(iii) Use the alternate I clause when the acquisition is of end products listed in 225.401–70 in support of operations in Afghanistan.

* * * * *

(5) Use the basic or the alternate of the provision at 252.225–7020, Trade Agreements Certificate, instead of the provision at FAR 52.225–6, Trade Agreements Certificate, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that include the basic or alternate II of the clause at 252.225–7021, Trade Agreements. If the solicitation includes the provision at FAR 52.204–7, do not separately list the provision 252.225–7020 in the solicitation.

(i) Use the basic provision if the solicitation includes the basic clause at 252.225–7021.

(ii) Use the alternate I provision if the solicitation includes alternate II of the clause at 252.225–7021.

(6) Except as provided in paragraph (6)(iv) of this section, use the basic or an alternate of the clause at 252.225–7021, Trade Agreements, instead of the clause at FAR 52.225–5, Trade Agreements, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, if the World Trade Organization Government Procurement Agreement applies, i.e., the acquisition is of end products listed at 225.401–70, the value of the acquisition equals or exceeds $204,000, and none of the exceptions at 25.401(a) applies.

(i) Use the basic clause in solicitations and contracts that are not of end products in support of operations in Afghanistan, or that include the clause at 252.225–7024, Requirement for Products or Services from Afghanistan.

(ii) Use the alternate II clause in solicitations and contracts that do not include the clause at 252.225–7024, Requirement for Products or Services from Afghanistan, when the acquisition is of end products in support of operations in Afghanistan.

(iii) Do not use the basic or an alternate of the clause if—

* * * * *

(9) Use the basic or an alternate of the provision at 252.225–7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate, instead of the provision at FAR 52.225–4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that include the basic or an alternate of the clause at 252.225–7036, Buy American—Free Trade Agreements—Balance of Payments Program. If the solicitation includes the provision at FAR 52.204–7, do not separately list the provision 252.225–7035 in the solicitation.

(i) Use the basic provision in solicitations when the basic of the clause at 252.225–7036 is used.

(ii) Use the alternate I provision when the clause at 252.225–7036 is used with its Alternate I.

(iii) Use the alternate II provision when the clause at 252.225–7036 is used with its Alternate II.

(iv) Use the alternate III provision when the clause at 252.225–7036 is used with its Alternate III.

(v) Use the alternate IV provision when the clause at 252.225–7036 is used with its Alternate IV.

(vi) Use the alternate V provision when the clause at 252.225–7036 is used with its Alternate V.

(10)(i) Except as provided in paragraph (10)(ii) of this section, use the basic or an alternate of the clause at 252.225–7036, Buy American—Free Trade Agreements—Balance of Payments Program, instead of the clause at FAR 52.225–3, Buy American—Free Trade Agreements—Israeli Trade Act, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for the items listed at 225.401–70, when the estimated value equals or exceeds $25,000, but is less than $204,000, unless an exception at 25.401 applies.

(A) Use the basic clause in solicitations and contracts when the estimated value equals or exceeds $79,507, except if the acquisition is of end products in support of operations in Afghanistan.

(B) Use the alternate I clause in solicitations and contracts when the estimated value is less than $79,507, except if the acquisition is of end products in support of operations in Afghanistan.

(C) Use the alternate II clause in solicitations and contracts when the estimated value equals or exceeds $100,000 and the acquisition is of end products in support of operations in Afghanistan.

(D) Use the alternate III clause in solicitations and contracts when the estimated value is less than $79,507 and the acquisition is of end products in support of operations in Afghanistan.

(E) Use the alternate IV clause in solicitations and contracts when the estimated value equals or exceeds $79,507 but is less than $100,000, except if the acquisition is of end products in support of operations in Afghanistan.

(F) Use the alternate V clause in solicitations and contracts when the estimated value equals or exceeds $79,507 but is less than $100,000 and the acquisition is of end products in support of operations in Afghanistan.

(ii) Do not use the basic or an alternate of the clause in paragraph (10)(i) of this section if—

* * * * *

■ 4. Revise section 225.7503 to read as follows:

225.7503 Contract clauses.

Unless the entire acquisition is exempt from the Balance of Payments Program—

(a) Use the basic or an alternate of the clause at 252.225–7044, Balance of Payments Program—Construction Material, in solicitations and contracts for construction to be performed outside the United States, including acquisitions of commercial items or components, with an estimated value greater than the simplified acquisition threshold but less than $7,864,000.

(1) Use the basic clause unless the acquisition is in support of operations in Afghanistan.

(2) Use the alternate I clause if the acquisition is in support of operations in Afghanistan.

(b) Use the basic or an alternate of the clause at 252.225–7045, Balance of Payments Program—Construction Material Under Trade Agreements, in solicitations and contracts for construction to be performed outside the United States with an estimated value of $7,864,000 or more, including acquisitions of commercial items or components.

(1) Use the basic clause in solicitations and contracts with an estimated value of $10,335,931 or more, unless the acquisition is in support of operations in Afghanistan.

(2) Use the alternate I clause in solicitations and contracts with an estimated value of $7,864,000 or more, but less than $10,335,931 unless the acquisition is in support of operations in Afghanistan.

(3) Use the alternate II clause in solicitations and contracts with an estimated value of $10,335,931 or more and is in support of operations in Afghanistan.

(4) Use the alternate III clause in solicitations and contracts with an estimated value of $7,864,000 or more, but less than $10,335,931, and is in support of operations in Afghanistan.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 252.225–7000 by—

■ a. Revising the introductory text, provision title, and date, and paragraph (a);

■ b. In paragraph (c)(1), removing ''Buy American and Balance of Payments Program'' and adding ''Buy American and Balance of Payments Program—Basic'' in its place; and

■ c. Revising Alternate I.

The revisions read as follows:

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

As prescribed in 225.1101(1), use one of the following provisions:

Basic. As prescribed in 225.1101(1)(i), use the following provision:

Buy American—Balance of Payments Program Certificate—Basic (Nov 2014)

(a) *Definitions. Commercially available off-the-shelf (COTS) item, component, domestic end product, foreign end product, qualifying country, qualifying country end product, South Caucasus/Central and South Asian (SC/CASA) state, South Caucasus/Central and South Asian (SC/CASA) state end product,* and *United States,* as used in this provision, have the meanings given in the Buy American and Balance of Payments Program—Basic clause of this solicitation.

* * * * *

Alternate I. As prescribed in 225.1101(1)(ii), use the following provision, which adds *South Caucasus/Central and South Asian (SC/CASA) state* and *South Caucasus/Central and South Asian (SC/CASA) state end product* in paragraph (a), and replaces ''qualifying country end products'' in paragraphs (b)(2) and (c)(2) with ''qualifying country end products or SC/CASA state end products'':

Buy American—Balance of Payments Program Certificate—Alternate I (Nov 2014)

(a) *Definitions. Commercially available off-the-shelf (COTS) item, component, domestic end product, foreign end product, qualifying country, qualifying country end product, South Caucasus/Central and South Asian (SC/CASA) state, South Caucasus/Central and South Asian (SC/CASA) state end product,* and *United States,* as used in this provision, have the meanings given in the Buy American and Balance of Payments Program—Alternate I clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will evaluate offers of qualifying country end products or SC/CASA state end products without regard to the restrictions of the Buy American statute or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American and Balance of Payments Program—Alternate I clause of this solicitation, the offeror certifies that—

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product; and

(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror certifies that the following end products are qualifying country end products or SC/CASA state end products:

Line Item Number

Country of Origin

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of *domestic end product:*

Line Item Number

Country of Origin (If known)

(End of provision)

■ 6. Amend section 252.225–7001 by—

■ a. Revising the introductory text, clause title, and date; and

■ b. Revising Alternate I.

252.225–7001 Buy American and Balance of Payments Program.

As prescribed in 225.1101(2)(i), use one of the following clauses:

Basic. As prescribed in 225.1101(2)(ii), use the following clause:

Buy American and Balance of Payments Program—Basic (Nov 2014)

* * * * *

Alternate I. As prescribed in 225.1101(2)(iii), use the following clause, which adds *South Caucasus/Central and South Asian (SC/CASA) state* and *South Caucasus/Central and South Asian (SC/CASA) state end product* to paragraph (a), and uses different paragraphs (b) and (c) than the basic clause:

Buy American and Balance of Payments Program—Alternate I (Nov 2014)

(a) *Definitions.* As used in this clause—

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of ''commercial item'' in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into an end product.

Domestic end product means—

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item.

End product means those articles, materials, and supplies to be acquired under this contract for public use.

Foreign end product means an end product other than a domestic end product.

Qualifying country means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia
Austria
Belgium
Canada
Czech Republic
Denmark
Egypt
Finland
France
Germany
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Poland
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland.

Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

Qualifying country end product means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if—

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(*1*) Components mined, produced, or manufactured in a qualifying country.

(*2*) Components mined, produced, or manufactured in the United States.

(*3*) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

South Caucasus/Central and South Asian (SC/CASA) state end product means an article that—

(i) Is wholly the growth, product, or manufacture of an SC/CASA state; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The

term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) This clause implements the Balance of Payments Program. Unless otherwise specified, this clause applies to all line items in the contract.

(c) The Contractor shall deliver only domestic end products unless, in its offer, it specified delivery of other end products in the Buy American Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or an SC/CASA state end product, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, or, at the Contractor's option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

* * * * *

■ 7. Amend section 252.225–7013 by—

■ a. Removing the clause date ''(OCT 2013)'' and adding ''(NOV 2014)'' in its place; and

■ b. In paragraph (a), revising the definition for ''Eligible product''.

The revision reads as follows:

252.225–7013 Duty-free entry.

* * * * *

(a) * * *

Eligible product means—

(i) *Designated country end product,* as defined in the Trade Agreements (either basic or alternate) clause of this contract;

(ii) *Free Trade Agreement country end product,* other than a *Bahrainian end product,* a *Moroccan end product,* a *Panamanian end product,* or a *Peruvian end product,* as defined in the Buy American—Free Trade Agreements—Balance of Payments Program (either basic or alternate II) clause of this contract;

(iii) *Canadian end product,* as defined in the Buy American—Free Trade Agreements—Balance of Payments Program (either alternate I or alternate III) clause of this contract; or

(iv) *Free Trade Agreement country end product* other than a *Bahrainian end product, Korean end product, Moroccan end product, Panamanian end product,* or *Peruvian end product,* as defined in the Buy American—Free Trade Agreements—Balance of Payments Program (either alternate IV or alternate V) clause of this contract.

* * * * *

■ 8. Amend section 252.225–7020 by—

■ a. Revising the introductory text, provision title, and date;

■ b. Revising paragraph (a);

■ c. In paragraph (c)(1), removing ''Trade Agreements clause'' and adding ''Trade Agreements—Basic'' in its place; and

■ d. Revising Alternate I.

The revisions read as follows:

252.225–7020 Trade Agreements Certificate.

As prescribed in 225.1101(5), use one of the following provisions:

Basic. As prescribed in 225.1101(5)(i), use the following provision:

Trade Agreements Certificate—Basic (Nov 2014)

(a) *Definitions. Designated country end product, nondesignated country end product, qualifying country end product,* and *U.S.-made end product,* as used in this provision have the meanings given in the Trade Agreements—Basic clause of this solicitation.

* * * * *

Alternate I. As prescribed in 225.1101(5)(ii), use the following provision, which uses different paragraphs (a), (b)(2), and (c) than the basic clause:

Trade Agreements Certificate—Alternate I (Nov 2014)

(a) *Definitions. Designated country end product, nondesignated country end product, qualifying country end product, South Caucasus/Central and South Asian (SC/CASA) state, South Caucasus/Central and South Asian (SC/CASA) state end product,* and *U.S.-made end product,* as used in this provision, have the meanings given in the Trade Agreements—Alternate I clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will consider only offers of end products that are U.S.-made, qualifying country, SC/CASA state, or designated country end products unless—

(i) There are no offers of such end products;

(ii) The offers of such end products are insufficient to fulfill the Government's requirements; or

(iii) A national interest waiver has been granted.

(c) *Certification and identification of country of origin.*

(1) For all line items subject to the Trade Agreement—Alternate I clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in paragraph (c)(2)(ii) of this provision, is a U.S.-made, qualifying country, SC/CASA state, or designated country end product.

(2)(i) The following supplies are SC/CASA state end products:

(Line Item Number) (Country of Origin)

(ii) The following are other nondesignated country end products:

(Line Item Number) (Country of Origin)

(End of provision)

■ 9. Amend section 252.225–7021 by—

■ a. Revising the introductory text, clause title, and date; and

■ b. Revising Alternate II.

The revisions read as follows:

252.225–7021 Trade agreements.

As prescribed in 225.1101(6), use one of the following clauses:

Basic. As prescribed in 225.1101(6)(i), use the following clause:

Trade Agreements—Basic (Nov 2014)

* * * * *

Alternate II. As prescribed in 225.1101(6)(ii), use the following clause, which (i) adds *South Caucasus/Central and South Asian (SC/CASA) state* and *South Caucasus/Central and South Asian (SC/CASA) state end product* to paragraph (a); (ii) uses a different paragraph (c) than the basic clause; (iii) adds a new paragraph (d); and (iv) includes paragraphs (e) and (f) which are the same paragraphs (d) and (e) of the basic clause:

Trade Agreements—Alternate II (Nov 2014)

(a) *Definitions. As used in this clause—Caribbean Basin country end product—*

(i) Means an article that—

(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself; and

(ii) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—

(A) Textiles, apparel articles, footwear, handbags, luggage, flat goods, work gloves, leather wearing apparel, and handloomed, handmade, or folklore articles that are not granted duty-free status in the Harmonized

Tariff Schedule of the United States (HTSUS);

(B) Tuna, prepared or preserved in any manner in airtight containers; and

(C) Watches and watch parts (including cases, bracelets, and straps) of whatever type, including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the HTSUS column 2 rates of duty (HTSUS General Note 3(b)) apply.

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into an end product.

Designated country means—

(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as ''the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu'' (Chinese Taipei)), or the United Kingdom);

(ii) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Peru, or Singapore);

(iii) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(iv) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

Designated country end product means a WTO GPA country end product, a Free Trade Agreement country end product, a least developed country end product, or a Caribbean Basin country end product.

End product means those articles, materials, and supplies to be acquired under this contract for public use.

Free Trade Agreement country end product means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Least developed country end product means an article that—

(i) Is wholly the growth, product, or manufacture of a least developed country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Nondesignated country end product means any end product that is not a U.S.-made end product or a designated country end product.

Qualifying country means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia
Austria
Belgium
Canada
Czech Republic
Denmark
Egypt
Finland
France
Germany
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Poland
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland.

Qualifying country end product means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if—

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(*1*) Components mined, produced, or manufactured in a qualifying country.

(*2*) Components mined, produced, or manufactured in the United States.

(*3*) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

South Caucasus/Central and South Asian (SC/CASA) state end product means an article that—

(i) Is wholly the growth, product, or manufacture of an SC/CASA state; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

United States means the 50 States, the District of Columbia, and outlying areas.

U.S.-made end product means an article that—

(i) Is mined, produced, or manufactured in the United States; or

(ii) Is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

WTO GPA country end product means an article that—

(i) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the

article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only U.S.-made, qualifying country, SC/CASA state, or designated country end products unless—

(1) In its offer, the Contractor specified delivery of other nondesignated country end products in the Trade Agreements Certificate provision of the solicitation; and

(2)(i) Offers of U.S.-made, qualifying country, SC/CASA state, or designated country end products from responsive, responsible offerors are either not received or are insufficient to fill the Government's requirements; or

(ii) A national interest waiver has been granted.

(d) If the Contractor is from an SC/CASA state, the Contractor shall inform its government of its participation in this acquisition and that it generally will not have such opportunity in the future unless its government provides reciprocal procurement opportunities to U.S. products and services and suppliers of such products and services.

(e) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(f) The HTSUS is available on the Internet at *http://www.usitc.gov/tata/hts/bychapter/index.htm.* The following sections of the HTSUS provide information regarding duty-free status of articles specified in paragraph (a)(2)(ii)(A) of this clause:

(1) General Note 3(c), Products Eligible for Special Tariff Treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries Under the United States—Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits Under the United States—Caribbean Basin Trade Partnership Act.

(End of clause)

■ 10. Amend section 252.225–7035 by—

■ a. Revising the introductory text, provision title, and date;

■ b. In paragraph (a), removing ''Buy American—Free Trade Agreements—Balance of Payments Program'' and adding ''Buy American—Free Trade Agreements—Balance of Payments Program—Basic'' in its place;

■ c. In paragraph (b)(2), removing ''Free Trade Agreements'' and adding ''Buy American—Free Trade Agreements—Balance of Payments Program—Basic clause of this solicitation'' in its place;

■ d. In paragraph (c)(1) introductory text, removing ''Buy American—Free Trade Agreements—Balance of Payments Program'' and adding ''Buy American—Free Trade Agreements—Balance of Payments Program—Basic'' in its place; and

■ e. Revising Alternates I, II, III, IV, and V.

252.225–7035 Buy American—Free Trade Agreements—Balance of Payments Program Certificate.

As prescribed in 225.1101(9), use one of the following provisions:

Basic. As prescribed in 225.1101(9)(i), use the following provision:

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Basic (Nov 2014)

* * * * *

Alternate I. As prescribed in 225.1101(9)(ii), use the following provision, which uses *Canadian end product* in paragraph (a), rather than the phrases *Bahrainian end product, Free Trade Agreement country, Free Trade Agreement country end product, Moroccan end product, Panamanian end product,* and *Peruvian end products* in paragraph (a) of the basic provision; uses ''Canadian end products'' in paragraphs (b)(2) and (c)(2)(i), rather than ''Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products'' in paragraphs (b)(2) and (c)(2)(ii) of the basic provision; and does not use ''Australian or'' in paragraph (c)(2)(i):

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate I (Nov 2014)

(a) *Definitions. Canadian end product, commercially available off-the-shelf (COTS) item, component, domestic end product, foreign end product, qualifying country end product,* and *United States,* as used in this provision, have the meanings given in the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate I clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) For line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate I clause of this solicitation, will evaluate offers of qualifying country end products or Canadian end products without regard to the restrictions of the Buy American or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate I clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Canadian) end products:

(Line Item Number) (Country of Origin)

(ii) The offeror certifies that the following supplies are Canadian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of *domestic end product:*

(Line Item Number) (Country of Origin (If known))

(End of provision)

Alternate II. As prescribed in 225.1101(9)(iii), use the following provision, which adds *South Caucasus/Central and South Asian (SC/CASA) state* and *South Caucasus/Central and South Asian (SC/CASA) state end product* to paragraph (a), and uses different paragraphs (b)(2) and (c)(2)(i) than the basic provision:

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate II (Nov 2014)

(a) *Definitions. Bahrainian end product, commercially available off-the-shelf (COTS) item, component, domestic end product, Free Trade Agreement country, Free Trade Agreement country end product, foreign end product, Moroccan end product, Panamanian end product, Peruvian end product, qualifying country end product, South Caucasus/Central and South Asian (SC/CASA) state, South Caucasus/Central and South Asian (SC/CASA) state end product,* and *United States,* as used in this provision, have the meanings given in the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate II clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) For line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate II clause of this solicitation, will evaluate offers of qualifying country end products, SC/CASA state end products, or Free Trade Agreement

country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products without regard to the restrictions of the Buy American or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate II clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Australian or Canadian) or SC/CASA state end products:

(Line Item Number) (Country of Origin)

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of *domestic end product:*

(Line Item Number) (Country of Origin (If known))

(End of provision)

Alternate III. As prescribed in 225.1101(9)(iv), use the following provision, which uses different paragraphs (a), (b)(2), (c)(2)(i), and (c)(2)(ii) than the basic provision:

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate III (Nov 2014)

(a) *Definitions. Canadian end product, commercially available off-the-shelf (COTS) item, domestic end product, foreign end product, qualifying country end product, South Caucasus/Central and South Asian (SC/CASA) state end product,* and *United States,* as used in this provision have the meanings given in the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate III clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) For line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate III clause of this solicitation, will evaluate offers of qualifying country end products, SC/CASA state end products, or Canadian end products without regard to the restrictions of the Buy American or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate III clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Canadian) or SC/CASA state end products:

(Line Item Number) (Country of Origin)

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of *domestic end product:*

(Line Item Number) (Country of Origin (If known))

(End of provision)

Alternate IV. As prescribed in 225.1101(9)(v), use the following provision, which adds *Korean end product* to paragraph (a); and uses ''Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products'' in paragraphs (b)(2) and (c)(2)(ii), rather than ''Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products'' in paragraphs (b)(2) and (c)(2)(ii) of the basic provision:

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate IV (Nov 2014)

(a) *Definitions. Bahrainian end product, commercially available off-the-shelf (COTS) item, component, domestic end product, Free Trade Agreement country, Free Trade Agreement country end product, foreign end product, Korean end product, Moroccan end product, Panamanian end product, Peruvian end product, qualifying country end product,* and *United States,* as used in this provision, have the meanings given in the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate IV clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) For line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate IV clause of this solicitation, will evaluate offers of qualifying country end products or Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products without regard to the restrictions of the Buy American or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate IV clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Australian or Canadian) end products:

(Line Item Number) (Country of Origin)

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of *domestic end product:*

(Line Item Number) (Country of Origin (If known))

(End of provision)

Alternate V. As prescribed in 225.1101(9)(vi), use the following provision, which uses different paragraphs (a), (b)(2), (c)(2)(i), and (c)(2)(ii) than the basic provision:

Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate V (Nov 2014)

(a) *Definitions. Bahrainian end product, commercially available off-the-shelf (COTS)*

item, component, domestic end product, ''*Free Trade Agreement country, Free Trade Agreement country end product, foreign end product, Korean end product, Moroccan end product, Panamanian end product, Peruvian end product, qualifying country end product, South Caucasus/Central and South Asian (SC/CASA) state end product,* and *United States,* as used in this provision, have the meanings given in the Buy American Act—Free Trade Agreements—Balance of Payments Program—Alternate V clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) For line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate V clause of this solicitation, will evaluate offers of qualifying country end products, SC/CASA state end products, or Free Trade Agreement end products other than Bahrainian end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products without regard to the restrictions of the Buy American statute or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program—Alternate V clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Australian or Canadian) or SC/CASA state end products:

(Line Item Number)	(Country of Origin)

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products:

(Line Item Number)	(Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of *domestic end product:*

(Line Item Number)	(Country of Origin (If known))

(End of provision)

■ 11. Amend section 252.225–7036 by—

■ a. Revising the introductory text, clause title, and date;

■ b. In paragraph (c), removing ''Buy American—Free Trade Agreements—Balance of Payments Program Certificate'' and adding ''Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Basic'' in its place; and

■ c. Revising Alternates I, II, III, IV, and V.

252.225–7036 Buy American—Free Trade Agreements—Balance of Payments Program.

As prescribed in 225.1101(10)(i), use one of the following clauses:

Basic. As prescribed in 225.1101(10)(i)(A), use the following clause:

Buy American—Free Trade Agreements—Balance of Payments Program—Basic (Nov 2014)

* * * * *

Alternate I. As prescribed in 225.1101(10)(i)(B), use the following clause, which adds *Canadian end product* to paragraph (a), and uses a different paragraph (c) than the basic clause:

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate I (Nov 2014)

(a) *Definitions.* As used in this clause—

Bahrainian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Bahrain; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Canadian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Canada; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into an end product.

Domestic end product means—

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item.

End product means those articles, materials, and supplies to be acquired under this contract for public use.

Foreign end product means an end product other than a domestic end product.

Free Trade Agreement country means Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore;

Free Trade Agreement country end product means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract,

but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Moroccan end product means an article that—

(i) Is wholly the growth, product, or manufacture of Morocco; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Panamanian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Panama; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Peruvian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Peru; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Qualifying country means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia
Austria
Belgium
Canada
Czech Republic
Denmark
Egypt
Finland
France
Germany
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Poland
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland.

Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

Qualifying country end product means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if—

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(*1*) Components mined, produced, or manufactured in a qualifying country.

(*2*) Components mined, produced, or manufactured in the United States.

(*3*) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country, Canadian, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate I provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Canadian end product, the Contractor shall deliver a qualifying country end product, a Canadian end product, or, at the Contractor's option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

Alternate II. As prescribed in 225.1101(10)(i)(C), use the following clause, which adds *South Caucasus/Central and South Asian (SC/CASA) state* and *South Caucasus/Central and South Asian (SC/CASA) state end product* to paragraph (a), and uses a different paragraph (c) than the basic clause:

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate II (Nov 2014)

(a) *Definitions.* As used in this clause—

Bahrainian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Bahrain; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Commercially available off-the-shelf *(COTS) item*—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into an end product.

Domestic end product means—

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item.

End product means those articles, materials, and supplies to be acquired under this contract for public use.

Foreign end product means an end product other than a domestic end product.

Free Trade Agreement country means Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore;

Free Trade Agreement country end product means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Moroccan end product means an article that—

(i) Is wholly the growth, product, or manufacture of Morocco; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Panamanian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Panama; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Peruvian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Peru; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Qualifying country means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia
Austria
Belgium
Canada
Czech Republic
Denmark
Egypt
Finland
France
Germany
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Poland
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland.

Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

Qualifying country end product means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if—

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(*1*) Components mined, produced, or manufactured in a qualifying country.

(*2*) Components mined, produced, or manufactured in the United States.

(*3*) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

South Caucasus/Central and South Asian (SC/CASA) state end product means an article that—

(i) Is wholly the growth, product, or manufacture of an SC/CASA state; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, SC/CASA state end products, Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate II provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, SC/CASA state end products, or a Free Trade Agreement country end product other than a Bahrainian end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, a Free Trade Agreement country end product other than a Bahrainian end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product or, at the Contractor's option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

Alternate III. As prescribed in 225.1101(10)(i)(D), use the following clause, which adds *Canadian end product, South Caucasus/Central and South Asian (SC/CASA) state,* and *South Caucasus/Central and South Asian (SC/CASA) state end product* to paragraph (a) and uses a different paragraph (c) than the basic clause:

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate III (Nov 2014)

(a) *Definitions.* As used in this clause—

Bahrainian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Bahrain; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Canadian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Canada; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into an end product.

Domestic end product means—

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item.

End product means those articles, materials, and supplies to be acquired under this contract for public use.

Foreign end product means an end product other than a domestic end product.

Free Trade Agreement country means Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore;

Free Trade Agreement country end product means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Moroccan end product means an article that—

(i) Is wholly the growth, product, or manufacture of Morocco; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Panamanian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Panama; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Peruvian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Peru; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Qualifying country means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia
Austria
Belgium
Canada
Czech Republic
Denmark
Egypt
Finland
France
Germany
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Poland
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland.

Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

Qualifying country end product means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if—

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(*1*) Components mined, produced, or manufactured in a qualifying country.

(*2*) Components mined, produced, or manufactured in the United States.

(*3*) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

South Caucasus/Central and South Asian (SC/CASA) state end product means an article that—

(i) Is wholly the growth, product, or manufacture of an SC/CASA state; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, SC/CASA state end products, Canadian end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate III provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, SC/CASA state end products, or a Canadian end product, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, a Canadian end product or, at the Contractor's option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

Alternate IV. As prescribed in 225.1101(10)(i)(E), use the following clause, which adds *Korean end product* to paragraph (a), and uses a different paragraph (c) than the basic clause:

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate IV (Nov 2014)

(a) *Definitions.* As used in this clause—

Bahrainian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Bahrain; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into an end product.

Domestic end product means—

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item.

End product means those articles, materials, and supplies to be acquired under this contract for public use.

Foreign end product means an end product other than a domestic end product.

Free Trade Agreement country means Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore;

Free Trade Agreement country end product means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Korean end product means an article that—

(i) Is wholly the growth, product, or manufacture of Korea; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Moroccan end product means an article that—

(i) Is wholly the growth, product, or manufacture of Morocco; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Panamanian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Panama; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Peruvian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Peru; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Qualifying country means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia
Austria
Belgium
Canada
Czech Republic
Denmark
Egypt
Finland
France
Germany
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Poland
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland.

Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

Qualifying country end product means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if—

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(*1*) Components mined, produced, or manufactured in a qualifying country.

(*2*) Components mined, produced, or manufactured in the United States.

(*3*) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate IV provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Free Trade Agreement country end product other than a Bahrainian end product, a Korean end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, a Free Trade Agreement country end product other than a Bahrainian end product, a Korean end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, or, at the Contractor's option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

Alternate V. As prescribed in 225.1101(10)(i)(F), use the following clause, which adds *Korean end product, South Caucasus/Central and South Asian (SC/CASA) state,* and *South Caucasus/Central and South Asian (SC/CASA) state end product* to paragraph (a), and uses a different paragraph (c) than the basic clause:

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate V (Nov 2014)

(a) *Definitions.* As used in this clause—

Bahrainian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Bahrain; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means an article, material, or supply incorporated directly into an end product.

Domestic end product means—

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(*1*) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(*2*) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item.

End product means those articles, materials, and supplies to be acquired under this contract for public use.

Foreign end product means an end product other than a domestic end product.

Free Trade Agreement country means Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore;

Free Trade Agreement country end product means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract,

but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Korean end product means an article that—

(i) Is wholly the growth, product, or manufacture of Korea; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Moroccan end product means an article that—

(i) Is wholly the growth, product, or manufacture of Morocco; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Panamanian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Panama; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Panama into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Peruvian end product means an article that—

(i) Is wholly the growth, product, or manufacture of Peru; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

Qualifying country means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia
Austria
Belgium
Canada
Czech Republic
Denmark
Egypt
Finland
France
Germany
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Poland
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland.

Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

Qualifying country end product means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if—

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(*1*) Components mined, produced, or manufactured in a qualifying country.

(*2*) Components mined, produced, or manufactured in the United States.

(*3*) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

South Caucasus/Central and South Asian (SC/CASA) state end product means an article that—

(i) Is wholly the growth, product, or manufacture of an SC/CASA state; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, SC/CASA state end products, Free Trade Agreement country end products other than Bahrainian end products, Korean end products, Moroccan end products, Panamanian end products, or Peruvian end products, or other foreign end products in the Buy American—Free Trade Agreements—Balance of Payments Program Certificate—Alternate V provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, SC/CASA state end products, or a Free Trade Agreement country end product other than a Bahrainian end product, a Korean end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product, the Contractor shall deliver a qualifying country end product, an SC/CASA state end product, a Free Trade Agreement country end product other than a Bahrainian end product, a Korean end product, a Moroccan end product, a Panamanian end product, or a Peruvian end product or, at the Contractor's option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

■ 12. Amend section 252.225–7044 by—

■ a. Revising the introductory text, clause title, and date;

■ b. In paragraph (a), redesignating the paragraph numbers for—

■ i. *Commercially available off-the shelf (COTS) item* by redesignating paragraphs (1) and (2) as (i) and (ii); and in the newly redesignated paragraph (i), redesignating paragraphs (i), (ii), and (iii) as (i)(A), (B), and (C), respectively;

■ ii. *Cost of components* by redesignating paragraphs (1) and (2) as (i) and (ii), respectively;

■ iii. *Domestic construction material* by redesignating paragraphs (1) and (2) as (i) and (ii); and in the newly redesignated paragraph (ii), redesignating paragraphs (i) and (ii) as (ii)(A) and (B), respectively; and

■ c. Revising Alternate I.

252.225–7044 Balance of Payments Program—Construction Material.

As prescribed in 225.7503(a), use one of the following clauses:

Basic. As prescribed in 225.7503(a)(1), use the following clause:

Balance of Payments Program—Construction Material—Basic (Nov 2014)

* * * * *

Alternate I. As prescribed in 225.7503(a)(2), use the following clause, which adds definitions for *South Caucasus/Central and South Asian (SC/CASA) state* and *SC/CASA state construction material* to paragraph (a), and uses ''domestic construction material or SC/CASA state construction material'' instead of ''domestic construction material'' in the second sentence of paragraph (b):

Balance of Payments Program—Construction Material—Alternate I (Nov 2014)

(a) *Definitions.* As used in this clause—

Commercially available off-the-shelf (COTS) item''—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Component means any article, material, or supply incorporated directly into construction material.

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

(i) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(ii) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Domestic construction material means—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(B) The construction material is a COTS item.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

SC/CASA state construction material means construction material that—

(i) Is wholly the growth, product, or manufacture of an SC/CASA state; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different construction material distinct from the material from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) *Domestic preference.* This clause implements the Balance of Payments Program by providing a preference for domestic construction material. The Contractor shall use only domestic construction material or SC/CASA state construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation;

(2) Information technology that is a commercial item; or

(3) The construction material or components listed by the Government as follows:

_____

[*Contracting Officer to list applicable excepted materials or indicate ''none''*].

(End of clause)

■ 13. Amend section 252.225–7045 by—

■ a. Revising the introductory text, clause title, and date;

■ b. In paragraph (a), redesignating the paragraph numbers for—

■ i. *Caribbean Basin country construction material* by redesignating paragraphs (1) and (2) as (i) and (ii), respectively;

■ ≤ii. *Commercially available off-the-shelf (COTS) item* by redesignating paragraphs (1) and (2) as (i) and (ii); and in the newly redesignated paragraph (i), redesignating paragraphs (i), (ii), and (iii) as (i)(A), (B), and (C), respectively;

■ iii. *Cost of components* by redesignating paragraphs (1) and (2) as (i) and (ii), respectively;

■ iv. *Designated country* by redesignating paragraphs (1) through (4) as (i) through (iv), respectively;

■ v. *Domestic construction material* by redesignating paragraphs (1) and (2) as (i) and (ii); and in the newly redesignated paragraph (ii) redesignating paragraphs (i) and (ii) as (ii)(A) and (B);

■ vi. *Free Trade Agreement country construction material* by redesignating paragraphs (1) and (2) as (i) and (ii);

■ vii. *Least developed country construction material* by redesignating paragraphs (1) and (2) as (i) and (ii);

■ viii. *WTO GPA country construction material* by redesignating paragraphs (1) and (2) as (i) and (ii); and

■ c. Revising Alternates I, II, and III.

252.225–7045 Balance of Payments Program—Construction Material Under Trade Agreements.

As prescribed in 225.7503(b), use one of the following clauses:

Basic. As prescribed in 225.7503(b)(1), use the following clause:

Balance of Payments Program—Construction Material Under Trade Agreements—Basic (Nov 2014)

* * * * *

Alternate I. As prescribed in 225.7503(b)(2), use the following clause, which adds *Bahrainian or Mexican construction material* to paragraph (a), and uses a different paragraph (b) and (c) than the basic clause:

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate I (Nov 2014)

(a) *Definitions.* As used in this clause—

Bahrainian or Mexican construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of Bahrain or Mexico; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain or Mexico into a new and different construction material distinct from the materials from which it was transformed.

Caribbean Basin country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.

Component means any article, material, or supply incorporated directly into construction material.

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

(i) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(ii) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Designated country means—

(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as ''the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu'' (Chinese Taipei)), or the United Kingdom);

(ii) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);

(iii) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(iv) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

Designated country construction material means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

Domestic construction material means—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(B) The construction material is a COTS item.

Free Trade Agreement country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.

Least developed country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a least developed country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

WTO GPA country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and all Free Trade Agreements except NAFTA and the Bahrain Free Trade Agreement apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for designated country construction material other than Bahrainian or Mexican construction material.

(c) The Contractor shall use only domestic or designated country construction material other than Bahrainian or Mexican construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation; or

(2) Information technology that is a commercial item; or

(3) The construction material or components listed by the Government as follows:

[*Contracting Officer to list applicable excepted materials or indicate ''none''*].

(End of clause)

Alternate II. As prescribed in 225.7503(b)(3), use the following clause, which adds *South Caucasus/Central and South Asian (SC/CASA) state* and *SC/CASA state construction material* to paragraph (a), uses a different paragraph (b) and introductory text for paragraph (c) than the basic clause, and adds paragraph (d):

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate II (Nov 2014)

(a) *Definitions.* As used in this clause—

Caribbean Basin country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.

Component means any article, material, or supply incorporated directly into construction material.

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

(i) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(ii) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Designated country means—

(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as ''the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu'' (Chinese Taipei)), or the United Kingdom);

(ii) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);

(iii) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(iv) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

Designated country construction material means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

Domestic construction material means—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(B) The construction material is a COTS item.

Free Trade Agreement country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.

Least developed country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a least developed country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

SC/CASA state construction material means construction material that—

(i) Is wholly the growth, product, or manufacture of an SC/CASA state; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different construction material distinct from the material from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

WTO GPA country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA, Free Trade Agreements, and other waivers relating to acquisitions in support of operations in Afghanistan apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for SC/CASA state and designated country construction materials.

(c) The Contractor shall use only domestic, SC/CASA state, or designated country construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation;

(2) Information technology that is a commercial item; or

(3) The construction material or components listed by the Government as follows:

_____

[*Contracting Officer to list applicable excepted materials or indicate ''none''*].

(d) If the Contractor is from an SC/CASA state, the Contractor shall inform its government of its participation in this acquisition and that it generally will not have such opportunity in the future unless its government provides reciprocal procurement opportunities to U.S. products and services and suppliers of such products and services.

(End of clause)

Alternate III. As prescribed in 225.7503(b)(4), use the following clause, which adds *South Caucasus/Central and South Asian (SC/CASA state* and *SC/CASA state construction material* to paragraph (a), uses a different paragraph (b) and introductory text for paragraph (c) than the basic clause, and adds paragraph (d):

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate III (Nov 2014)

(a*) Definitions.* As used in this clause—

Caribbean Basin country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of *commercial item* in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.

Component means any article, material, or supply incorporated directly into construction material.

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

(i) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(ii) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Designated country means—

(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as ''the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu'' (Chinese Taipei)), or the United Kingdom);

(ii) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);

(iii) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(iv) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

Designated country construction material means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

Domestic construction material means—

(i) An unmanufactured construction material mined or produced in the United States; or

(ii) A construction material manufactured in the United States, if—

(A) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(B) The construction material is a COTS item.

Free Trade Agreement country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.

Least developed country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a least developed country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

South Caucasus/Central and South Asian (SC/CASA) state means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkmenistan, or Uzbekistan.

SC/CASA state construction material means construction material that—

(i) Is wholly the growth, product, or manufacture of An SC/CASA state; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an SC/CASA state into a new and different construction material distinct from the material from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

WTO GPA country construction material means a construction material that—

(i) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA, all Free Trade Agreements except NAFTA and the Bahrain Free Trade Agreement, and other waivers relating to acquisitions in support of operations in Afghanistan apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for SC/CASA state and designated country construction material other than Bahrainian or Mexican construction material.

(c) The Contractor shall use only domestic, SC/CASA state, or designated country construction material other than Bahrainian or Mexican construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation;

(2) Information technology that is a commercial item; or

(3) The construction material or components listed by the Government as follows:

[*Contracting Officer to list applicable excepted materials or indicate ''none''*].

(d) If the Contractor is from an SC/CASA state, the Contractor shall inform its government of its participation in this acquisition and that it generally will not have such opportunity in the future unless its government provides reciprocal procurement opportunities to U.S. products and services and suppliers of such products and services.

(End of clause)

[FR Doc. 2014–26161 Filed 11–4–14; 8:45 am]

BILLING CODE 5001–06–P

FEDERAL REGISTER

Vol. 79 Wednesday,

No. 214 November 5, 2014

Part IV

Department of Agriculture

Natural Resources Conservation Service
Commodity Credit Corporation

7 CFR Part 1470
Conservation Stewardship Program (CSP) Interim Rule; Interim Rule

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Commodity Credit Corporation

7 CFR Part 1470

RIN 0578–AA63

[Docket No. NRCS–2014–0008]

Conservation Stewardship Program (CSP) Interim Rule

AGENCY: Natural Resources Conservation Service and the Commodity Credit Corporation, United States Department of Agriculture.

ACTION: Interim rule with request for comment.

SUMMARY: This interim rule with request for comment amends the existing Natural Resources Conservation Service (NRCS) regulation for the Conservation Stewardship Program (CSP) to incorporate programmatic changes as authorized by amendments in the Agricultural Act of 2014 (2014 Act).

DATES: *Effective date:* This rule is effective November 5, 2014.

Comment date: Submit comments on or before January 5, 2015.

ADDRESSES: You may submit comments using one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments for Docket No. NRCS–2014–0008.
- *U.S. mail or hand delivery:* Public Comments Processing, Attn: Docket No. NRCS–2014–0008, Regulatory and Agency Policy Team, Strategic Planning and Accountability, U.S. Department of Agriculture, Natural Resources Conservation Service, 5601 Sunnyside Avenue, Building 1–1112D, Beltsville, MD 20705.

NRCS will post all comments on *http://www.regulations.gov.* If your comment includes your address, phone number, email address, or other personal identifying information, please be aware that your entire comment, including this personal information, will be made publicly available. Do not include personal information with your comment submission if you do not wish for it to be made public.

FOR FURTHER INFORMATION CONTACT: Director, Financial Assistance Programs Division, U.S. Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013–2890. Telephone: (202) 720–1845. Fax: (202) 720–4265.

SUPPLEMENTARY INFORMATION:

Regulatory Certifications

Executive Order 12866 and 13563

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Upon implementation of this rule the Natural Resources Conservation Service intends to conduct a retrospective review of this rule with the purpose of improving program performance, emphasizing priority enhancements, and better understanding the longevity of conservation implementation.

The Office of Management and Budget (OMB) designated this interim rule with request for comment a significant regulatory action. The administrative record is available for public inspection in Room 5831 South Building, USDA, 14th and Independence Avenue SW., Washington, DC. Pursuant to Executive Order 12866, NRCS conducted a cost-effectiveness analysis (CEA) of the potential impacts associated with this program. A summary of the effectiveness analysis can be found at the end of this preamble and a copy of the analysis is available upon request from the Director, Financial Assistance Programs Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20250–2890 or electronically at: *http://www.nrcs.usda.gov/programs/csp/* under the *CSP Rules and Notices with Supporting Documents* title.

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this interim rule, we invite your comments on how to make the provisions easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute. NRCS did not prepare a regulatory flexibility analysis for this rule because NRCS is not required by 5 U.S.C. 553, or any other provision of law, to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Even so, NRCS has determined that this action, while mostly affecting small entities, will not have a significant economic impact on a substantial number of these small entities. NRCS made this determination based on the fact that this regulation only impacts those who choose to participate in the program. Small entity applicants will not be affected to a greater extent than large entity applicants.

Environmental Analysis

NRCS has determined that changes made by this rule fall within a category of actions that are excluded from the requirement to prepare either an Environmental Assessment (EA) or Environmental Impact Statement (EIS). The changes made by the rule are primarily those mandated by the 2014 Act, though there are additional administrative changes made to improve consistency with other NRCS programs and make other clarifications. NRCS has no discretion with respect to changes mandated by the 2014 Act; therefore the National Environmental Policy Act (NEPA) does not apply. Administrative changes made in this rule fall within a categorical exclusion for policy development relating to routine activities and similar administrative functions (7 CFR 1b.3(a)(1)) and NRCS has identified no extraordinary circumstances that would otherwise require preparation of an EA or EIS.

To further its site-specific compliance with NEPA, NRCS reviewed the 2009 CSP Programmatic EA, and found this rule makes no substantial changes that are relevant to environmental concerns as compared to the EA proposed action. Furthermore, NRCS has not found any significant new circumstances or information relevant to environmental concerns. As a result, NRCS will continue to tier to the 2009 CSP

Programmatic EA as appropriate to meet NEPA requirements related to site-specific activities.

Public comment on the environmental analysis only may be submitted by any of the following means: (1) Email comments to *andree.duvarney@wdc.usda.gov,* (2) go to *http://www.regulations.gov* and follow the instructions for submitting comments for Docket No. NRCS–2014–0008, or (3) mail written comments to: National Environmental Coordinator, Natural Resources Conservation Service, Ecological Sciences Division, Room 6159–S, P.O. Box 2890, Washington, DC 20013–2890.

Civil Rights Impact Analysis

NRCS has determined through a Civil Rights Impact Analysis that the interim rule discloses no disproportionately adverse impacts for minorities, women, or persons with disabilities. The national target of setting aside 5 percent of CSP acres for socially disadvantaged farmers and ranchers and an additional 5 percent of CSP acres for beginning farmers and ranchers; and prioritizing veterans applications that are competing in these subaccounts for socially disadvantaged farmers or ranchers and beginning farmer or ranchers is expected to increase participation among these groups.

The data presented in the analysis indicates producers who are members of the protected groups have participated in NRCS conservation programs at parity with other producers. Extrapolating from historical participation data, it is reasonable to conclude that CSP will continue to be administered in a nondiscriminatory manner. Outreach and communication strategies are in place to ensure all producers will be provided the same information to allow them to make informed decisions regarding the use of their lands that will affect their participation in USDA programs. NRCS conservation programs apply to all persons equally regardless of their race, color, national origin, gender, sex, or disability status. Therefore, this interim rule portends no adverse civil rights implications for women, minorities and persons with disabilities.

Paperwork Reduction Act

Section 1246 of the Food Security Act of 1985 (the 1985 Act) provides that implementation of programs authorized by Title XII of the 1985 Act be made without regard to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Therefore, NRCS is not reporting recordkeeping or estimated paperwork burden associated with this interim rule.

Government Paperwork Elimination Act

NRCS is committed to compliance with the Government Paperwork Elimination Act and the Freedom to E-File Act, which require government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. To better accommodate public access, NRCS has developed an online application and information system for public use.

Executive Order 13175

This interim 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. NRCS has assessed the impact of this interim rule on Indian Tribes and determined that this rule does not have Tribal implications that require Tribal consultation under E.O. 13175. The rule neither imposes substantial direct compliance costs on Tribal Governments nor preempts Tribal law. The agency has developed an outreach/collaboration plan that it will implement as it develops its Farm Bill policy. If a Tribe requests consultation, NRCS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

The 2014 Act changes to CSP that address participation by Indian Tribes are limited to special funding arrangements from the CSP-specific provisions of Section 1241 of the 1985 Act, and streamlining the use of the definition of Indian Tribes. These changes are discussed more fully herein.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal Governments or the private sector of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA requires NRCS to prepare a written statement, including a cost-benefit assessment, for proposed and final rules with ''Federal mandates'' that may result in such expenditures 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 under Title II of the UMRA, for State, local, and Tribal Governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

NRCS has considered this interim rule in accordance with Executive Order 13132, issued August 4, 1999. NRCS has determined that the interim rule conforms with the Federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the National Government and the States, nor on the distribution of power and responsibilities among the various levels of government. Therefore, NRCS concludes that this interim rule does not have Federalism implications.

Economic Analysis—Executive Summary

The Conservation Stewardship Program (CSP) is authorized under the provisions of Chapter 2, Subtitle D of Title XII of the Food Security Act of 1985 (1985 Act), as amended by Title II, Subtitle D of the Food, Conservation, and Energy Act of 2008 (2008 Act) and by Title II, Subtitle B of the Agriculture Act of 2014 (2014 Act). The Secretary of Agriculture, acting through the Chief of the Natural Resources Conservation Service (NRCS), administers the program.

As part of the 2014 Act, Congress reauthorized CSP and capped enrollment at 10 million acres for each fiscal year (FY) during the period February 7, 2014, through September 30, 2022; however, the 2014 Act only provided funding through FY 2018. CSP contracts run for 5 years and include the potential for a one-time renewal for an additional 5 years, thus creating financial obligations through FY 2027

for commitments made during FY 2014 to FY 2018. Nationally, program costs cannot exceed an annual average rate of $18 per acre. For each of the five FY signups (FY 2014 to FY 2018) including a one-time contract renewal for an additional 5 years, Congress committed a maximum of $1.8 billion. Total authorized funding equals $9 billion for the five signups (FY 2014 to FY 2018).

Participation in CSP is voluntary. Agricultural and forestry producers decide whether or not CSP participation helps them achieve their conservation objectives. Hence, CSP participation is not expected to negatively impact program participants and nonparticipants.

Pursuant to Executive Order 12866 and OMB Circular A–4 that provides guidance in conducting regulatory analyses, NRCS conducted an assessment of CSP consistent with this rule's designation as a significant regulatory action. Most of this rule's impacts consist of transfers from the Federal Government to producers. Although these transfers create incentives that very likely cause changes in the way society uses its resources, we lack data to estimate the resulting social costs or benefits. This analysis therefore, includes a summary of program costs and qualitative assessment of program impacts.

Total projected government program obligations for CSP are shown in table 1. Obligations include only costs to the government between FY 2014 and FY 2027 (five signups with one-time, 5-year contract renewals). Projected maximum program obligations in nominal dollars equal $9 billion. Given a 3 percent discount rate, projected cumulative program obligations equal $6,405 billion in constant 2014 dollars. At a 7 percent discount rate, maximum program obligations equal $4,942 billion in constant 2014 dollars. Average annualized obligations at the 3 percent and 7 percent discount rates equal $567 million and $565 million, respectively.

TABLE 1—TOTAL PROJECTED PROGRAM OBLIGATIONS FOR CSP, FY 2014 THROUGH FY 2027 [a]

Fiscal year	Obligation [b] (million $)	GDP price deflator [c] (2014=100)	Obligation constant dollars (million $)	Discount factors for 3%	Present value of obligation—3% (million $)	Discount factors for 7%	Present value of obligation—7% (million $)
FY14	180	100.0000	180	0.9709	175	0.9346	168
FY15	360	102.1000	353	0.9426	332	0.8734	308
FY16	540	104.2441	518	0.9151	474	0.8163	423
FY17	720	106.4332	676	0.8885	601	0.7629	516
FY18	900	108.6683	828	0.8626	714	0.7130	591
FY19	900	110.9504	811	0.8375	679	0.6663	541
FY20	900	113.0584	796	0.8131	647	0.6227	496
FY21	900	115.2065	781	0.7894	617	0.5820	455
FY22	900	117.3954	767	0.7664	588	0.5439	417
FY23	900	119.6260	752	0.7441	560	0.5083	382
FY24	720	121.8989	591	0.7224	427	0.4751	281
FY25	540	124.2149	435	0.7014	305	0.4440	193
FY26	360	126.5750	284	0.6810	194	0.4150	118
FY27	180	128.9799	140	0.6611	92	0.3878	54
Total	9,000		7,912		6,405		4,942
Annualized Obligations					567		565

[a] Table 1 in the main document.
[b] Congress set a maximum of 10 million acres per signup and a national payment rate of $18 per acre. With a one-time contract renewal option, each signup equals $1.8 billion in projected program obligations over its 10-year period. Congress authorized five signups.
[c] For years 1 to 5, the GDP adjustment is 2.10 percent (OMB); for years 6 to 14, the GDP adjustment factor is 1.90 percent (average growth since 1993).

Compared to CSP as authorized under the 2008 Act, Congress significantly reduced its size but left much of CSP's underlying structure intact. In addition, the Secretary of Agriculture proposed a number of discretionary administrative changes as a means of improving program implementation.

As shown in table 2, the downsizing of CSP from an annual 12.769 million acre program to an annual 10 million acre program has the greatest impact on program funds, conservation activities, and cost-effectiveness. Program funds, which include financial and technical assistance, decrease by $2.492 billion (nominal dollars) compared to CSP under the 2008 Act. With fewer acres and fewer dollars, fewer contracts will be funded under the 2014 Act. The new conservation activities that would have been applied to enhance the existing activities on the lost 2.769 million acres will not be applied to the Nation's working lands. However, cost-effectiveness, defined as dollars per additional unit of conservation effect, will improve slightly because lower ranked eligible applications are the first ones cut from every State's ranking pools. That is, obligations per unit of conservation effect will be lower under the 2014 Act. Properly implemented, a smaller sized CSP will be neutral in its impacts across all producer types, including beginning and socially disadvantaged groups.

TABLE 2—PROGRAM IMPACTS OF THE STATUTORY REQUIREMENTS AND DISCRETIONARY ACTIONS [a]

Statutory	*Based on 2008 CSP Farm Bill Provisions: 12.769 Millions Acres vs. 10 Million Acres*			
	Program Funds	Impacts of Conservation Activities	Cost-Effectiveness	Participant Diversity
Acreage Enrollment Limitations	−$2.492 billion in program funds.	Significantly large decrease.	Slight improvement	No impact.
Statutory	*2008 CSP at 10 Million Acres vs. 2014 CSP at 10 Million Acres*			
	Program Funds	Impacts of Conservation Activities	Cost-Effectiveness	Participant Diversity
Conditions for Contract Renewal	Small/Moderate decrease.	Increase	Improvement	No Impact.
Discretionary	Program Funds	Impacts of Conservation Activities	Cost-Effectiveness	Participant Diversity
Contract Renewal: To renew contracts, shift eligibility determinations to applicable priority resource concerns.	Moderate decrease	Marginal Increase	Marginal Improvement	No Impact.

[a] Shortened version of table 10 in the accompanying regulatory impact analysis.

One additional legislated change in the 2014 Act, additional contract renewal requirements is also expected to generate smaller, yet important program impacts. The legislated 2014 contract renewal requirements—producer agrees to meet the stewardship thresholds for at least two additional priority resource concerns by the end of the renewed contract period or to exceed the stewardship thresholds of at least two existing priority resource concerns specified in the original contract—will likely result in a slightly larger portion of CSP participants not renewing their contracts compared to a comparably sized 2008 CSP and renewal rate. The 2008 Act only requires the addition of one or more new conservation activities for contract renewal. However, CSP participants under the 2014 Act are required to add activities to meet or exceed stewardship thresholds for at least two priority resource concerns, thus likely increasing the number of additional activities applied during the second 5-year period. With yearly payments extended and more activities being applied under 2014 Act renewals, a small improvement in cost-effectiveness is expected. Overall no differential impacts are expected between general agricultural and general forest producers and beginning and socially disadvantaged producers, including veteran status.

An important discretionary change is clearly defining the terms ''applicable priority resource concerns'' and ''other priority resource concerns.'' ''Applicable priority resource concerns'' represent resource issues within a watershed or portion of a State that NRCS is targeting for improvement. ''Other priority resource concerns'' are resource concerns that are currently not being targeted for improvement. These definitions allow NRCS to better describe how it is targeting resources to meet statutory objectives.

In summary, differences in program impacts between the 2008 CSP and the 2014 CSP can be attributed primarily to the program's smaller acre cap of 10 million acres. Statutory requirements related to contract renewals and proposed discretionary actions will result in a more focused approach to meeting conservation objectives.

Comments Invited

NRCS invites interested persons to participate in this rulemaking by submitting written comments or views about the changes made by this interim rule. The most helpful comments reference a specific portion of the regulation, explain the reason for any recommended changes, and include supporting data and references to statutory language. All comments received on or before the closing date for comments will be considered. This regulation may be changed because of the comments received. All comments received, as well as a report summarizing each substantive public comment received concerning this interim rule will be filed in the docket (No. NRCS–2014–0008). The docket, including any personal information provided, will be made available for public inspection.

Discussion of Conservation Stewardship Program (7 CFR Part 1470)

The Food, Conservation, and Energy Act of 2008 Act (2008 Act) amended the Food Security Act of 1985 (1985 Act) to establish the Conservation Stewardship Program (CSP) and authorize the program in FY 2009 through FY 2013. The Agriculture Act of 2014 (the 2014 Act) reauthorizes and revises CSP.

The purpose of CSP is to encourage producers to address priority resource concerns and improve and conserve the quality and condition of the natural resources in a comprehensive manner by: (1) Undertaking additional conservation activities; and (2) improving, maintaining, and managing existing conservation activities. The Secretary of Agriculture delegated authority to the Chief, NRCS, to administer CSP.

Through CSP, NRCS provides financial and technical assistance to eligible producers to conserve and enhance soil, water, air, and related natural resources on their land. Eligible lands include private or tribal cropland, grassland, pastureland, rangeland, nonindustrial private forest lands and other land in agricultural areas (including cropped woodland, marshes, and agricultural land or capable of being used for the production of livestock) on which resource concerns related to agricultural production could be addressed. Participation in the program is voluntary.

CSP encourages land stewards to improve their conservation performance by installing and adopting additional activities, and improving, maintaining, and managing existing activities on

eligible land. NRCS makes funding for CSP available nationwide on a continuous application basis.

NRCS coordinates its implementation of CSP with the other premier Farm Bill working lands program, the Environmental Quality Incentives Program (EQIP). CSP and EQIP work in a complementary manner to address conservation issues associated with agricultural operations. In particular, EQIP emphasizes assistance upon the magnitude of the expected conservation benefit and thus address those natural resource concerns that are creating significant environmental impact, while CSP emphasizes assistance to producers who are already addressing some of these potential environmental impacts by meeting a priority resource concern's stewardship level of treatment and encourages these producers to achieve greater stewardship performance in a comprehensive manner. Thus, a producer can receive assistance to install conservation practices under EQIP that enables the producer to meet the stewardship threshold for a priority resource concern, which in turn enables the producer to be eligible for CSP. In this way, CSP builds upon the conservation efforts initiated under EQIP and expands upon them to a new level of conservation performance.

Summary of CSP Provisions

The CSP regulation is organized into three subparts: Subpart A—General Provisions; Subpart B—Contracts; and Subpart C—General Administration. Below is a summary of the changes made to each subpart based upon the changes made to CSP by the 2014 Act.

The 2014 Act made the following changes to CSP implementation:

- Establishes implementation for FY 2014 through FY 2018 (the 2008 Act was for FY 2008 through FY 2014);
- Limits eligible land to land in production for at least four of the 6 years preceding February 7, 2014, the date of enactment of the Agricultural Act of 2014 (previous date was June 18, 2008);
- Requires contract offers to meet or exceed the stewardship threshold for at least two priority resource concerns (the 2008 Act only required one resource concern) and meet or exceed the stewardship threshold for one additional priority resource concern by the end of the contract (the 2008 Act required one priority resource concern);
- Strikes the definition and references to ''conservation measurement tools'' (the 2008 Act did not contain a similar provision);
- Requires that the contract must include all eligible land under the effective control of the applicant that is operated substantially separate from other operations for the term of the contract;
- Allows enrollment of lands that are protected by an agricultural land easement under the newly authorized Agricultural Conservation Easement Program (ACEP) (the 2008 Act did not include ACEP);
- Allows enrollment of lands that are in the last year of the Conservation Reserve Program (CRP) (the 2008 Act did not contain a similar provision). The CRP contract must expire at the end of the fiscal year in which the land is to be enrolled in CSP, and the CRP payment for enrolled land must cease before the first CSP payment is made;
- Allows contract to be renewed if the threshold for two additional priority resource concerns will be met or the stewardship threshold will be exceeded for two existing priority resource concerns (the 2008 Act did not contain a similar provision);
- Requires that at least five priority resource concerns be identified for each area or watershed (the 2008 Act required three to five priority resource concerns);
- Requires NRCS to establish a science-based stewardship threshold for each priority resource concern (the 2008 Act did not contain a similar provision);
- Authorizes NRCS to prorate conservation performance so that a participant may receive equal annual payments to the greatest extent practicable;
- Emphasizes conservation activities to be implemented across the agricultural operation;
- Authorizes a supplemental payment for improving resource conserving crop rotations (the 2008 Act did not contain a similar provision);
- Removed the 10 percent cap on nonindustrial private forest land enrollment;
- Included a preference for veterans (the 2008 Act did not contain a similar provision);
- Reduces the annual enrollment limit from 12,769,000 to 10,000,000 acres; and
- Establishes CSP as a covered program authorized to be used to accomplish the purposes of the Regional Conservation Partnership Program (RCPP) (Subtitle I of Title XII of the Food Security Act of 1985, as amended by the 2014 Act) (the 2008 Act did not contain a similar provision).

Subpart A—General Provisions

Section 1470.1 Applicability

Section 1470.1, ''Applicability,'' sets forth the policies, procedures, and requirements of CSP. In paragraph (a), NRCS clarifies that contracts entered into prior to the 2014 Act are administered according to the CSP regulation in effect prior to enactment, and that contracts entered into after enactment of the 2014 Act will be administered under these regulations. Paragraph (b) updates CSP purposes consistent with the changes made to CSP purposes by the 2014 Act.

Section 1470.2 Administration

Section 1470.2, ''Administration,'' describes the roles of NRCS at the National and State levels. Paragraph (b) is revised to clarify the scope of the authority of the Chief to change delegations within the agency or to modify or waive certain discretionary provisions of this regulation. As revised by the 2014 Act, NRCS replaced reference in paragraph (c) to ''conservation measurement tools'' with the establishment of ''science-based stewardship thresholds for each priority resource concern.'' NRCS revised paragraph (d) to identify that between FY 2014 and FY 2022, NRCS will enroll an additional 10,000,000 acres in each fiscal year and continue operating the program to achieve a national average rate of $18 per acre, which includes the costs to the Federal Government for all financial and technical assistance, and any other expenses associated with program enrollment and participation.

NRCS modified paragraph (e)(1)(ii) to require that NRCS will identify not less than five applicable priority resource concerns in particular watersheds, geographic areas, or other appropriate regions within a State, as required by statute. Applicable priority resource concerns are selected by the State from a defined list of priority resource concerns identified at the national level and have the most important environmental challenges associated with agricultural production in the State or region. The current suite of priority resource concerns is comprised of the following: air quality, animal, energy, plants, soil erosion, soil quality, water quality, and water quantity. NRCS retains the authority to modify this suite of priority resource concerns. For example, the Chief may want to target a geographic area where expanding wildlife concerns are deemed more significant as compared to energy concerns. This requirement is now captured in (e)(2). NRCS removed paragraphs (e)(1)(iv) and (v) consistent with the 2014 Act changes to remove on-farm research and demonstration and pilot projects under CSP, and to reflect the repeal of the Cooperative Conservation Partnership Initiative.

Section 1470.3 Definitions

Section 1470.3, ''Definitions,'' sets forth definitions for terms used throughout this regulation. The following definitions have been modified to reflect changes made by the 2014 Act: ''agricultural operation,'' ''conservation activities,'' and ''priority resource concern.'' The terms ''conservation measurement tool'' and ''resource concern'' have been removed to conform to changes made by the 2014 Act.

The term ''animal waste storage or treatment facility'' was also removed. This avoids unnecessarily narrowing the application of the term.

The term ''conservation planning'' was removed because its terms are covered in § 1470.22, Conservation Stewardship Plan. The definition of ''conservation practice'' was modified to be more consistent with the definition used in the Environmental Quality Incentives Program (EQIP). The definition of ''conservation stewardship plan'' was modified to be consistent with § 1470.22, Conservation Stewardship Plan.

The term ''designated conservationist'' was removed since it is no longer used in the regulation.

Throughout, the term ''agricultural land'' was removed and replaced with ''eligible land,'' which describes those areas identified by CSP's authorizing legislation—working agricultural land being actively managed for agricultural production purposes upon which CSP will be focused. The definition for eligible land is consistent with that term added by the 2014 Act to section 1238D(4) of the Food Security Act of 1985.

The term ''enhancement'' was modified to link an enhancement's management intensity with the Field Office Technical Guide quality criteria, Section III, for each resource concern. Quality criteria specifics are located at: *http://efotg.sc.egov.usda.gov/.*

The term ''enrollment'' was removed. Since this definition was unique to the FY 2009 enrollment, it is no longer needed.

The term ''historically underserved producer'' was added to simplify references to several statutorily-defined categories of producers who are frequently referred to collectively.

The definition of ''legal entity'' was modified to be consistent with the definition used in EQIP.

The definition of ''limited resource farmer or rancher,'' was modified by removing the reference to ''$142,000'' that applied in 2010 only, and clarifying how the term is applied to legal entities or joint operations.

The definition of ''National Organic Program'' was modified to include the reference to the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

The definition of ''operation and maintenance'' was modified to be consistent with the definition in the EQIP regulation.

The definition of ''priority resource concern'' was amended to conform to the statute which defines the term as a natural resource concern or problem that is identified at the national, State, or local level and to explain the terms ''applicable'' priority resource concerns and ''other'' priority resource concerns in the context of the base term.

The definition of ''producer'' was modified to correct a citation.

The definition of ''socially disadvantaged producer'' was amended to conform to the statutory definition of the term.

The term ''state conservationist'' was removed and replaced throughout with the term ''NRCS'' to allow more flexibility in internal agency delegation of authority.

The definition of ''stewardship threshold'' was modified to remove reference to the conservation measurement tool (CMT) consistent with its removal by the 2014 Act. Additionally, NRCS removed the clause ''natural resource conservation and environment.'' The stewardship threshold is used to determine if an applicant meets the minimum treatment requirements to be eligible for CSP, and is also used as part of the ranking process. NRCS guides its efforts to set stewardship thresholds at sustainable levels for natural resource treatment.

The definition of ''technical service providers'' was modified to be consistent with 7 CFR part 652.

The definition of ''veteran farmer or rancher'' was added to address the new provision in the 2014 Act to prioritize individuals under this category.

Several other definitions in this rule were amended for clarity and to be consistent with definitions adopted for other conservation programs.

Section 1470.4 Allocation and Management

Section 1470.4, ''Allocation and management,'' addresses national allocations and how the proportion of eligible land will be used as the primary means to distribute CSP acres and associated funds among States. The agency plans to use a nationally consistent method to document resource needs and provide a foundation for establishing priorities within States. Inputs may include National Resources Inventory (NRI) land use data, NRI soil erosion estimates, NRI Rangeland Resource Assessment rangeland health data, NRI CEAP soil organic carbon data, and various attributes from the Soil Survey Geographic database. These and other data layers maybe used to calculate critical acres by State and resource concern. The considerations listed in paragraph (a)(2) have been modified to follow statutory allocation criteria provided in section 1238G(b)(2) of the Food Security Act. The 2014 Act amended section 1241(h) of the Food Security Act of 1985 to extend the assistance available to ''certain farmers or ranchers for conservation access'' for FY 2014 through FY 2018. Therefore, NRCS modified paragraph (c) to reflect that 5 percent of the CSP acres in each of FY 2014 through FY 2018 will be available to assist socially disadvantaged farmers or ranchers and 5 percent of the CSP acres in each of FY 2014 through FY 2018 will be available to assist beginning farmers or ranchers. Additionally, the 2014 Act added a priority within the conservation access acreage set-aside for veteran farmer or ranchers. This priority has been added to paragraph (d).

The original language in paragraph (e) has been removed from the regulation, consistent with the repeal of the Cooperative Conservation Partnership Initiative. NRCS identifies in the revised paragraph (e) that certain adjustments, based on resource assessments, may need to be made to the allocation of acres to States to ensure equitable and effective implementation to meet the purposes of the program and ensure National enrollment. In particular, NRCS may know at the time of determining a fiscal year's allocation of acres that while the allocation is based primarily on each State's proportion of eligible land to the total acreage of eligible land in all States, resource assessment adjustments are needed to ensure that each State's allocation does not exceed its ability to enroll land into the program. Additionally, once allocations have been made, a reallocation of acres may be necessary because one State is unable to meet its enrollment targets while demand of high priority projects is available in another State.

Section 1470.5 Outreach Activities

NRCS removed paragraph (d) to align the CSP rule with the EQIP rule.

Section 1470.6 Eligibility requirements

Section 1470.6, ''Eligibility requirements,'' sets forth the criteria for determining applicant and land eligibility. NRCS adjusted the regulatory

language slightly to address ''other producers'' who are not identified as the operator in the Farm Service Agency farm records system but otherwise meet program eligibility criteria. NRCS modified the rule to reflect several changes made in the Food Security Act of 1985 by the 2014 Act. Paragraph (b) was modified to use the new term ''eligible land,'' that reflects the new statutory definition.

Subpart B—Contracts and Payments

Section 1470.20 Application for Contracts and Selecting Offers From Applicants

Section 1470.20, ''Application for contracts and selecting offers from applicants,'' identifies procedures associated with contract application requirements, the application evaluation process, and application acceptance. NRCS amended paragraph (a) to clarify that applicants may submit an application for the agricultural operation. Paragraph (b) defines contract application requirements. Consistent with the 2014 Act revision to enrollment eligibility, NRCS modified paragraph (b)(1) to specify that an applicant must meet a stewardship threshold for at least two priority resource concerns at the time of contract offer. The 2008 Act had only required an applicant to meet one resource concern at the time of application. NRCS also amended paragraph (b)(2) to clarify that an applicant must meet or exceed the stewardship threshold for at least one additional priority resource concern by the end of the conservation stewardship contract. An applicant accomplishes this by installing and adopting additional conservation activities and by improving, maintaining, and managing existing conservation activities across the entire agricultural operation in a manner that increases or extends the conservation benefits in place at the time the contract application is accepted by NRCS.

NRCS removed paragraph (b)(4) as it addressed on-farm research and demonstration activities or pilot testing, which are activities removed from stewardship contracts by the 2014 Act.

The 2014 Act specified application ranking factors and paragraph (c) was modified to conform to the amended statutory ranking factors. The 2014 Act slightly modified the phraseology used to describe the ranking factors that had originally been identified in the 2008 Act and added a new factor related to the extent to which priority resource concerns will be addressed when transitioning from CRP to agricultural production.

NRCS removed reference to the CMT that had previously been identified in the ranking factors. However, the removal of the statutory and regulatory reference does not prohibit NRCS from utilizing the CMT or equivalent methodology, but simply removes the requirement that it be used.

Paragraph (d) on weighting of ranking factors was modified to clarify the authority of the Chief to adjust these factors as required to address any program objective, including placing emphasis on increasing net conservation benefits. Previously, the regulation simply identified the Chief could adjust the weighting of ranking factors to increase net conservation benefit.

During the first years of program implementation, NRCS ranked every application within a pool according to equally weighted ranking factors. NRCS selected applications for enrollment beginning with the highest ranked one and worked down the ranked list until a pool's funding limit or acreage limit was reached. This translated into an effective weighting scheme that shifted the program towards enrollment based upon additionality.

For the 2014 Act, the Chief will apply weights to the ranking factors to address evolving resource issues and priority adjustments. As reflected by the statutory ranking factors, NRCS will maintain weightings of ranking factors that continue to emphasize greatly the extent to which additional activities will be adopted. For example, the NRCS Chief may decide to place increased weights to those factors that relate to additional activities in order to increase the net new conservation benefit. Further, the NRCS Chief may make adjustments to ensure that the consideration of the enrollment of transitioning CRP lands as a ranking factor are fully assimilated with the other ranking factors so that such applications are equitably evaluated.

NRCS is seeking specific comment on how the factor for CRP land should be weighted in proportion to other ranking factors giving consideration for other lands being offered for enrollment.

NRCS removed from paragraph (f) the reference to NIPF enrollment limitation that had been removed by the 2014 Act.

Section 1470.21 Contract Requirements

Section 1470.21, ''Contract requirements,'' identifies elements contained within a contract and the responsibilities of a CSP participant. A participant must enter into a CSP contract, including a conservation stewardship plan, to enroll their eligible land and to receive payment. NRCS modified paragraph (b)(4)(i) to clarify that the participant must implement the conservation stewardship plan. NRCS also clarified at paragraph (b)(4)(vi) that a participant is required to ''maintain and supply information'' as requested by NRCS to determine ''compliance with the conservation stewardship plan and any other requirements of the program.'' Similarly, NRCS clarified at paragraph (b)(4)(vii) that a participant must not conduct any activities on the agricultural operation that would tend to defeat the purposes of the program. These participant requirements are included in the 2014 Act revisions to the participant's responsibilities under CSP.

Section 1470.22 Conservation Stewardship Plan

Section 1470.22, ''Conservation stewardship plan,'' describes that NRCS will use the conservation planning process to encourage producers to address priority resource concerns in a comprehensive manner. The conservation stewardship plan contains a record of the participant's decisions on the schedule of conservation activities to be implemented, managed, and improved under CSP.

NRCS added language at paragraph (c) that the conservation stewardship plan describes ''conservation activities to be implemented, managed, or improved.'' Additionally, NRCS removed the references to the CMT, revised the term ''resource concerns'' to be ''priority resource concerns, and removed the reference to on-farm research and demonstration or pilot testing, consistent with such changes made by the 2014 Act.

Section 1470.24 Payments

Section 1470.24, ''Payments,'' describes the types of payments issued under CSP, how payments will be derived, and payment limitations. The 2014 Act revisions to CSP require NRCS to make several changes to the provisions at § 1470.24. Section 1470.24 was modified to remove all references to the CMT. NRCS also modified paragraph (a) by adding the payment factors required by the 2014 Act.

Under paragraph (b), a participant may receive supplemental payments when he or she adopts a resource-conserving crop rotation. NRCS modified paragraph (b), consistent with 2014 Act, to identify that a participant is eligible for a supplemental payment if the participant agrees to adopt or improve beneficial crop rotations as appropriate for the eligible land of the participant.

NRCS removed the provision related to on-farm research and demonstration or pilot testing at paragraph (c), and re-designated the remaining paragraphs as appropriate.

As re-designated, paragraph (f) addresses payment limitations applicable to a person or legal entity. Consistent with the 2014 Act revision, NRCS replaced the rolling 5-year period with the time period FY 2014 through FY 2018. NRCS also simplified the references to ''federally-recognized'' Indian Tribes, consistent with the definition of Indian Tribe at section 1201(14) of the Food Security Act of 1985 and corresponding to the streamlining of terminology at section 1238G(f) made by the 2014 Act.

The 2008 Act required that a person or legal entity may not receive, directly or indirectly, payments that, in the aggregate, exceed $200,000 for all contracts entered into during any 5-year period. The 2014 Act replaced this ''rolling'' 5-year payment limitation with a $200,000 limitation for all contracts entered into between FY 2014 and FY 2018. The regulation continues to include an annual payment limit of $40,000 during any fiscal year to a person or legal entity. This annual limit was originally added to reduce the chance that participants would reach their $200,000 5-year limit early in their contract term and have diminished incentive to meet their obligations over the 5-year life of the contract. NRCS clarified that participants that in the aggregate exceed $200,000 for all contracts entered into prior to the end of the applicable period are expected to fulfill their contract obligation during the full term of the contract. NRCS monitors person or legal entity payment limitations through direct attribution to real persons.

The absence of a contract payment limitation in the 2008 Act caused concern because of the potential for excessively large contracts. Since each member of a joint operation is treated as a separate person or legal entity with payments directly attributed to them, contracts with a joint operation could be very large. For example, a contract with a joint operation with five members who each reach their $200,000 per person or legal entity limit could have contract payments of $1 million. This created the potential for a high percentage of allocated acres and funds to be utilized in contracts with large joint operations to the detriment of smaller operations. To prevent large contracts of this nature, the 2010 final rule included a contract limit of $200,000 over the term of the initial contract period with the exception of joint operations that could receive up to $400,000 over the term of the initial contract period. This same limitation remains in this interim rule.

With regard to the payment limitation as it applies to contracts with Indians represented by the Bureau of Indian Affairs (BIA) or an Indian Tribe, payments exceeding the payment limitation may be made to the Tribal participant if the BIA or Tribal official certifies in writing that no individual will receive more than the payment limitation. The BIA or Tribe must also provide, annually, a listing of individuals and payments made, by tax identification number or other unique identification number, during the previous year for calculation of overall payment limitations. The BIA or Indian Tribe must also produce, at the request of NRCS, proof of payments made to the person or legal entity that incurred costs or had income foregone related to conservation practice implementation.

NRCS also removed paragraph (l) related to payment data as the requirement to detail and segment CSP data has been removed from the CSP statute.

Section 1470.25 Contract Modifications and Transfers of Land

Changes made to section 1470.25, ''Contract modifications and transfers of land,'' clarify agency policy regarding voluntary contract modifications, consistent with the 2014 Act. NRCS modified paragraph (b) to authorize the removal of acres from CSP to enroll in the Conservation Reserve Program (CRP), in a wetland easement through the Agricultural Conservation Easement Program (ACEP–WRE), other Federal or State program that offers greater natural resource protection. NRCS may also approve modifications related to voluntary land use changes to another land use, eligible or ineligible, that the participant wishes to make within particular parameters to ensure program purposes can be met. Prior to approving any modification, NRCS must determine that the modification is consistent with CSP purposes.

Paragraph (c) states that NRCS will not modify a contract to increase the contract obligation beyond the amount of the initial contract, except to implement an appeal determination or correct an administrative error as approved by NRCS. Modifications to transfer the contract to a successor in interest and changes made to the structure of an operation are not excluded from this provision. NRCS also has clarified policy with respect to transfer of land.

Section 1470.26 Contract Renewal

Under § 1470.26, ''Contract renewal,'' NRCS may allow a participant to renew the contract for one additional 5-year period if they meet specific criteria. These criteria were modified by the 2014 Act, and therefore, paragraph (b) updates the criteria. NRCS is specifying that ''applicable'' priority resource concerns be addressed at the time of renewal given that the original contract addressed at least one or more priority resource concerns identified by the State and the test for renewal is whether existing or additional priority resource concerns identified by the State will be addressed during the renewed contract period. Previously, the requirement was that a participant only had to meet or exceed the stewardship threshold for one additional priority resource concern identified by the State.

In addition to incorporating the changes made by the 2014 Act, NRCS is taking this opportunity to clarify a few administrative provisions. Additionally, NRCS is simplifying the administrative complexity of the CSP rule by streamlining the regulation to focus upon only those provisions that relate to conservation program participants' rights and responsibilities under the program. In multiple places NRCS removed references to duties of specific NRCS positions, including the State Conservationist, and purely internal NRCS processes.

Subpart C—General Administration

Section 1470.37 Environmental Credits for Conservation Improvements

Changes made to section 1470.37 clarify that environmental benefits achieved through participation in the CSP program may qualify for environmental credits under an environmental credit-trading program, and that NRCS asserts no direct or indirect interest in these credits. Further, any requirements or standards of such environmental market program to receive credits must be compatible with the purposes of the CSP contract.

Regulatory Changes

List of Subjects in 7 CFR Part 1470

Agricultural operation, Conservation activities, Natural resources, Priority resource concern, Stewardship threshold, Resource-conserving crop rotation, Soil and water conservation, Soil quality, Water quality and water conservation, Wildlife and forest management.

For the reasons stated in the preamble, part 1470 of title 7 of the Code of Federal Regulations is revised to read as follows:

PART 1470—CONSERVATION STEWARDSHIP PROGRAM

Subpart A—General Provisions

Sec.
1470.1 Applicability.
1470.2 Administration.
1470.3 Definitions.
1470.4 Allocation and management.
1470.5 Outreach activities.
1470.6 Eligibility requirements.
1470.7 Enhancements and conservation practices.
1470.8 Technical and other assistance.

Subpart B—Contracts and Payments

1470.20 Application for contracts and selecting offers from applicants.
1470.21 Contract requirements.
1470.22 Conservation stewardship plan.
1470.23 Conservation activity operation and maintenance.
1470.24 Payments.
1470.25 Voluntary contract modifications and transfers of land.
1470.26 Contract renewal.
1470.27 Contract violations and termination.

Subpart C—General Administration

1470.30 Fair treatment of tenants and sharecroppers.
1470.31 Appeals.
1470.32 Compliance with regulatory measures.
1470.33 Access to agricultural operation.
1470.34 Equitable relief.
1470.35 Offsets and assignments.
1470.36 Misrepresentation and scheme or device.
1470.37 Environmental credits for conservation improvements.

Authority: 16 U.S.C. 3838d–3838g.

Subpart A—General Provisions

§ 1470.1 Applicability.

(a) This part sets forth the policies, procedures, and requirements for the Conservation Stewardship Program (CSP) as administered by the Natural Resources Conservation Service (NRCS), for enrollment during fiscal year (FY) 2014 and thereafter. Contracts entered into prior to FY 2014 will use the regulations and policies in effect the date prior to February 7, 2014.

(b) The purpose of CSP is to encourage producers to address priority resource concerns and improve and conserve the quality and condition of natural resources in a comprehensive manner by:

(1) Undertaking additional conservation activities; and

(2) Improving, maintaining, and managing existing conservation activities.

(c) CSP is applicable in any of the 50 States, District of Columbia, Commonwealth of Puerto Rico, Guam, Virgin Islands of the United States, American Samoa, and Commonwealth of the Northern Mariana Islands.

(d) NRCS provides financial and technical assistance to eligible producers.

§ 1470.2 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Chief, NRCS, who is a Vice President of the Commodity Credit Corporation (CCC).

(b) No delegation in the administration of this part to lower organizational levels will preclude the Chief from making any determinations under this part, re-delegating to other organizational levels, or from reversing or modifying any determination made under this part. The Chief may modify or waive a nonstatutory, discretionary provision of this part if the Chief determines:

(1) The application of that provision to a particular limited situation to be inappropriate and inconsistent with the purposes of the program; or

(2) The waiver of such discretionary provision is necessary to further the purposes of CSP under the Regional Conservation Partnership Program (RCPP) authorized by Subtitle I of Title XII of the Food Security Act of 1985. To assist in RCPP implementation, the Chief may also waive the applicability of the adjusted gross income (AGI) limitation in section 1001D(b)(2) of the Food Security Act of 1985 for participating producers if the Chief determines that the waiver is necessary to fulfill RCPP objectives.

(c) To achieve the conservation goals of CSP, NRCS will:

(1) Make the program available nationwide to eligible applicants on a continuous application basis with one or more ranking periods to determine enrollments. One of the ranking periods will occur in the first quarter of each fiscal year to the extent practicable.

(2) Establish a science-based stewardship threshold for each priority resource concern at the level of management required to conserve and improve the quality and condition of a natural resource.

(d) During the period beginning on February 7, 2014, and ending on September 30, 2022, NRCS will, to the maximum extent practicable:

(1) Enroll in CSP an additional 10,000,000 acres for each fiscal year; and

(2) Manage CSP to achieve a national average rate of $18 per acre, which includes the Federal costs of all financial and technical assistance and any other expenses associated with program enrollment and participation.

(e) NRCS will develop State level technical, outreach, and program materials, with the advice of the State Technical Committee and local working groups, including:

(1) Establishment of ranking pools appropriate for the conduct of CSP within the State to ensure program availability and better distribution of the funds. Ranking pools may be based on watersheds, geographic areas, or other appropriate regions within a State and may consider high-priority regional and State-level resource concern areas;

(2) Identification of not less than five applicable priority resource concerns in particular geographic areas, or other appropriate regions within a State; and

(3) Identification of resource-conserving crops that will be part of resource-conserving crop rotations.

(f) NRCS may enter into agreements with Federal, State, and local agencies, conservation districts, Indian Tribes, private entities, and individuals to assist NRCS with program implementation.

§ 1470.3 Definitions.

The following definitions will apply to this part and all documents issued in accordance with this part, unless specified otherwise:

Agricultural operation means all eligible land, as determined by NRCS, whether contiguous or noncontiguous that is:

(1) Under the effective control of a producer at the time of enrollment in the program; and

(2) Operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations.

Applicant means a producer who has requested in writing to participate in CSP.

Beginning farmer or rancher means a person or legal entity who:

(1) Has not operated a farm, ranch, or nonindustrial private forest land (NIPF), or who has operated a farm, ranch, or NIPF for not more than 10 consecutive years. This requirement applies to all members of a legal entity who will materially and substantially participate in the operation of the farm or ranch.

(2) In the case of a contract with an individual, individually, or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.

(3) In the case of a contract with a legal entity or joint operation, all members must materially and

substantially participate in the operation of the farm or ranch. Material and substantial participation requires that each of the members provide some amount of the management or labor and management necessary for day-to-day activities, such that if each of the members did not provide these inputs, operation of the farm or ranch would be seriously impaired.

Chief means the Chief of NRCS, United States Department of Agricultural (USDA), or designee.

Conservation activities mean conservation systems, practices, enhancements or management measures. The term conservation activities includes structural measures, vegetative measures, and land management measures, including agricultural drainage management systems as determined by NRCS, and planning needed to address a priority resource concern.

Conservation district means any district or unit of State, Tribal, or local government formed under State, Tribal, or territorial law for the express purpose of developing and carrying out a local soil and water conservation program. Such district or unit of government may be referred to as a ''conservation district,'' ''soil conservation district,'' ''soil and water conservation district,'' ''resource conservation district,'' ''land conservation committee,'' ''natural resource district,'' or similar name.

Conservation practice means structural practices, land management practices, vegetative practices, forest management practices, and other improvements that achieve the program purposes, including such items as Comprehensive Nutrient Management Plans, agricultural energy management plans, dryland transition plans, forest management plans, integrated pest management and other actions as approved by the Chief. Approved conservation practices are listed in the NRCS Field Office Technical Guide (FOTG).

Conservation stewardship plan means a plan developed in accordance with the requirements of § 1470.22.

Conservation system means a combination of conservation practices, management measures, and enhancements used to address natural resource and environmental concerns in a comprehensive, holistic, and integrated manner.

Contract means a legal document that specifies the rights and obligations of any participant who has been accepted into the program. A CSP contract is a binding agreement for the transfer of assistance from NRCS to the participant for installing, adopting, improving, managing, and maintaining conservation activities.

Effective control means possession of the land by ownership, written lease, or other legal agreement and authority to act as decision maker for the day-to-day management of the operation both at the time the applicant enters into a stewardship contract and for the required period of the contract.

Eligible land means:

(1) Private and tribal land on which agricultural commodities, livestock, or forest-related products are produced; and

(2) Upon which priority resource concerns could be addressed through a contract under the program. Eligible land includes cropland, grassland, rangeland, pastureland, nonindustrial private forest land, and other agricultural lands including cropped woodland, marshes, and agricultural land used or capable of being used for the production of livestock as determine by the Chief.

Enhancement means a type of conservation activity used to treat natural resources and improve conservation performance. Enhancements are equal to or greater than the performance level for the quality criteria identified for a given resource concern. Quality criteria are defined for each resource concern in Section III—Conservation Management Systems, Field Office Technical Guide.

Field office technical guide means the official local NRCS source of resource information and interpretations of guidelines, quality criteria, and standards for planning and implementation of conservation practices. It contains detailed information on the quality standard to achieve conservation of soil, water, air, plant, energy, and animal resources applicable to the local area for which it is prepared.

Historically underserved producer means a person, joint operation, legal entity, or Indian Tribes who is a beginning farmer or rancher, socially disadvantaged farmer or rancher, or limited resource farmer or rancher.

Indian lands means land held in trust by the United States for individual Indians or Indian Tribes, or all land titles held by individual Indians or Tribes, subject to Federal restrictions against alienation or encumbrance, or land which is subject to the rights of use, occupancy, and/or benefit of certain Indian Tribes. This term also includes lands for which the title is held in fee status by an Indian, Indian family, or Indian Tribe.

Indian Tribe means any Indian Tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Joint operation means, as defined in 7 CFR part 1400, a general partnership, joint venture, or other similar business organization in which the members are jointly and severally liable for the obligations of the organization.

Legal entity means, as defined in 7 CFR part 1400, an entity created under Federal or State law that owns land or an agricultural commodity, product, or livestock; or produces an agricultural commodity, product, or livestock.

Limited Resource Farmer or Rancher means:

(1) A person with direct or indirect gross farm sales not more than the current indexed value in each of the previous 2 fiscal years (adjusted for inflation using Prices Paid by Farmer Index as compiled by the National Agricultural Statistical Service); and

(2) Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous 2 years (to be determined annually using Department of Commerce Data).

(3) It also includes a legal entity or joint operation if all individual members independently qualify under paragraphs (1) and (2) of this definition.

Liquidated damages means a sum of money stipulated in the CSP contract that the participant agrees to pay NRCS if the participant fails to fulfill the terms of the contract. The sum represents an estimate of the technical assistance expenses incurred to service the contract, and reflects the difficulties of proof of loss and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy.

Management measure means one or more specific actions that is not a conservation practice, but has the effect of alleviating problems or improving the treatment of the natural resources.

National Organic Program means the program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.), administered by the Agricultural Marketing Service, which regulates the standards for any farm, wild crop harvesting, or handling operation that wants to market an agricultural product as organically produced.

Natural Resources Conservation Service means an agency of USDA which has responsibility for administering CSP using the funds, facilities, and authorities of the CCC.

Nonindustrial private forest land means rural land, as determined by NRCS, that has existing tree cover or is suitable for growing trees, and is owned by any nonindustrial private individual, group, association, corporation, Indian Tribe, or other private legal entity that has definitive decision-making authority over the land.

Operation and maintenance means work performed by the participant to maintain existing conservation activities to at least the level of conservation performance identified at the time of enrollment, and maintain additional conservation activities installed and adopted over the contract period. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed activity functioning as intended. Maintenance includes work to prevent deterioration of the activity, repairing damage, replacement or restoration of the activity to its original condition if one or more components fail.

Participant means a producer that has entered into a CSP contract and is receiving payment or is responsible for implementing the terms and conditions of a CSP contract.

Payment means financial assistance provided to the participant under the terms of the CSP contract.

Person means, as defined in 7 CFR part 1400, an individual, natural person and does not include a legal entity.

Priority resource concern means a natural resource concern or problem, as determined by NRCS, and is likely to be addressed successfully through implementation of conservation activities under this program. The term ''applicable'' priority resource concern means a resource concern identified by the State as a priority for a particular area of a State or region, and the term ''other'' priority resource concern means a resource concerns identified at the National level.

Producer means a person, legal entity, joint operation, or Indian Tribe who either has an interest in the agricultural operation or who NRCS determines is engaged in agricultural production or forestry management on the agricultural operation.

Resource-conserving crop means a crop that is one of the following:

(1) A perennial grass;

(2) A legume grown for use as forage, seed for planting, or green manure;

(3) A legume-grass mixture;

(4) A small grain grown in combination with a grass, legume, forbs, grass-forbs mixture, whether inter-seeded or planted in rotation.

Resource-conserving crop rotation means a crop rotation that:

(1) Includes at least one resource-conserving crop as determined by NRCS;

(2) Reduces erosion;

(3) Improves soil fertility and tilth;

(4) Interrupts pest cycles; and

(5) In applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

Secretary means the Secretary of USDA.

Socially disadvantaged farmer or rancher means a producer who is a member of a group whose members have been subjected to racial or ethnic prejudices without regard to its members' individual qualities.

State Technical Committee means a committee established by the NRCS in a State pursuant to 7 CFR part 610, subpart C.

Stewardship threshold means the level of management required, as determined by NRCS, to conserve and improve the quality and condition of a natural resource.

Technical assistance means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

(1) Technical services provided directly to farmers, ranchers, Indian Tribes, forest producers, and other eligible entities, such as conservation planning, technical consultation, preparation of forest stewardship management plans, and assistance with the design and implementation of conservation activities; and

(2) Technical infrastructure, including processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.

Technical Service Provider (TSP) means an individual, private-sector entity, Indian Tribe, or public agency certified by NRCS pursuant to 7 CFR part 652 and placed on the approved list to provide technical services to participants; or selected by the Department to assist the Department in the implementation of conservation programs covered by this part through a procurement contract, contribution agreement, or cooperative agreement with the Department.

Veteran farmer or rancher means a producer who meets the definition in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (7 U.S.C. 2279(e)).

§ 1470.4 Allocation and management.

(a) The Chief will allocate acres and associated funds to States:

(1) Based on the consideration of:

(i) Each State's proportion of eligible land to the total acreage of eligible land in all States:

(ii) The extent and magnitude of the conservation needs associated with agricultural production in each State,

(iii) The degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs, and

(iv) Other considerations determined by the Chief to achieve equitable geographic distribution of program funds.

(b) NRCS will allocate acres to ranking pools, to the extent practicable, based on the same factors the Chief considers in making allocations to States.

(c) Of the acres made available for each of fiscal years 2014 through 2018 to carry out CSP, NRCS will use, as a minimum:

(1) Five percent to assist beginning farmers or ranchers, and

(2) Five percent to assist socially disadvantaged farmers or ranchers.

(d) NRCS will provide priority under paragraph (c) to any producer who is a veteran farmer or rancher.

(e) NRCS may adjust the allocations to States in any fiscal year if it is determined an allocation cannot be utilized in a State. Additionally, allocated acres that are not enrolled by a date determined by NRCS may be reallocated with associated funds for use in that fiscal year under CSP. As part of the adjustments or reallocation process, NRCS will consider several factors, including demand from applicants, national and regional conservation priorities, and prior-year CSP performance in States.

§ 1470.5 Outreach activities.

(a) NRCS will establish program outreach activities at the national, State, and local levels to ensure that potential applicants who control eligible land are aware and informed that they may be eligible to apply for program assistance.

(b) Special outreach will be made to eligible producers with historically low participation rates, including but not restricted to, beginning farmers or ranchers, limited resource farmers or ranchers, and socially disadvantaged farmers or ranchers.

(c) NRCS will ensure that outreach is provided so as not to limit producer

participation because of size or type of operation or production system, including specialty crop and organic production.

§ 1470.6 Eligibility requirements.

(a) *Eligible applicant.* To apply for CSP, a producer must:

(1) Be the operator of an agricultural operation in the Farm Service Agency (FSA) farm records management system. Potential applicants who are not in the FSA farm records management system must establish records with FSA. Applicants whose records are not current in the FSA farm records management system must update those records prior to the close of the evaluation period to be considered eligible. NRCS may grant exceptions to the ''operator of record'' requirement for producers, tenants, landlords, sharecroppers, and owners in the FSA farm records management system that can demonstrate, to the satisfaction of NRCS, they will operate and have effective control of the land, that they share in the risk of producing a crop and are entitled to share in the crop available for marketing from the farm (or would have shared had the crop been produced), and that they are part of the daily management, administration, and performance of the operation and share in the risk;

(2) Have effective control of the land unless an exception is made by the Chief in the case of land administered by the BIA, Indian lands, or other instances in which the Chief determines that there is sufficient assurance of control;

(3) Be in compliance with the highly erodible land and wetland conservation provisions found at 7 CFR part 12;

(4) Be in compliance with Adjusted Gross Income provisions found at 7 CFR part 1400;

(5) Supply information, as required by NRCS, to determine eligibility for the program, including but not limited to, information related to eligibility requirements and ranking factors; conservation activity and production system records; information to verify the applicant's status as an historically underserved producer or a veteran farmer or rancher, if applicable; and payment eligibility as established by 7 CFR part 1400;

(6) Comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282, as amended), and 2 CFR parts 25 and 170; and

(7) Provide a list of all members of the legal entity or joint operation, as applicable, and embedded entities along with members' tax identification numbers and percentage interest in the legal entity or joint operation. Where applicable; American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payments.

(b) *Eligible land.* A contract application must include all of the eligible land on an applicant's agricultural operation. A participant may submit an application(s) to enter into an additional contract(s) for newly acquired or newly eligible land, which would then compete with other applications in a subsequent ranking period.

(c) *Ineligible land.* The following ineligible lands (even if covered by the definition of eligible land) are part of the agricultural operation, but ineligible for inclusion in the contract or for payment in CSP:

(1) Land enrolled in the Conservation Reserve Program (CRP), 7 CFR part 1410 unless—

(i) The conservation reserve contract will expire at the end of the fiscal year in which the land is to be enrolled in the program, and

(ii) Conservation reserve program payments for land enrolled in the program cease before the first program payment is made to the applicant under this subchapter;

(2) Land enrolled in a wetland reserve easement through the Agricultural Conservation Easement Program;

(3) Land enrolled in the Conservation Security Program, 7 CFR part 1469;

(4) Public land including land owned by a Federal, State, or local unit of government; and

(5) Land used for crop production after February 7, 2014, the date of enactment of the Agricultural Act of 2014, that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date, unless the land does not meet such requirements because that land:

(i) Had previously been enrolled in CRP,

(ii) Has been maintained using long-term crop rotation practices as determined by the NRCS, or

(iii) Is incidental land needed for efficient operation of the farm or ranch as determined by NRCS.

§ 1470.7 Enhancements and conservation practices.

(a) Participant decisions describing the additional enhancements and conservation practices to be implemented under the conservation stewardship contract will be recorded in the conservation stewardship plan.

(b) NRCS will make available to the public the list of conservation activities available to be installed, adopted, maintained, and managed through the CSP.

(c) NRCS will make available bundled suites of conservation enhancements for participants to select voluntarily to include as part of their conservation stewardship plans. The bundles will be designed to coordinate the installation and adoption of enhancements with each other to address resource concerns in a more comprehensive and cost-effective manner.

(d) CSP encourages the use of other NRCS programs to install conservation practices that are required to meet agreed-upon stewardship thresholds, but the practices may not be compensated through CSP.

§ 1470.8 Technical and other assistance.

(a) NRCS may provide technical assistance to an eligible applicant or participant either directly or through a technical service provider (TSP) as set forth in 7 CFR part 652.

(b) NRCS retains approval authority over certification of work done by non-NRCS personnel for the purpose of approving CSP payments.

(c) NRCS will ensure that technical assistance is available and program specifications are appropriate so as not to limit producer participation because of size or type or operation or production system, including specialty crop and organic production. In providing technical assistance to specialty crop and organic producers, NRCS will provide appropriate training to field staff to enable them to work with these producers and to utilize cooperative agreements and contracts with nongovernmental organizations with expertise in delivering technical assistance to these producers.

(d) NRCS will assist potential applicants dealing with the requirements of certification under the National Organic Program and CSP requirements concerning how to coordinate and simultaneously meet eligibility standards under each program.

(e) NRCS may utilize the services of State foresters and existing technical assistance programs such as the Forest Stewardship Program of the U.S. Forest Service, in coordinating assistance to NIPF owners.

Subpart B—Contracts and Payments

§ 1470.20 Application for contracts and selecting offers from applicants.

(a) *Submission of contract applications.* Applicants may submit an

application for the agricultural operation to enroll all of their eligible land into CSP on a continuous basis.

(b) *Stewardship threshold requirement.* To be eligible to participate in CSP, an applicant must submit to NRCS for approval, a contract offer for the agricultural operation that:

(1) Demonstrates that the applicant's conservation activities, at the time of contract offer, meet or exceed a stewardship threshold for at least two priority resource concerns; and

(2) Would, at a minimum, meet or exceed a stewardship threshold for at least one additional priority resource concern by the end of the conservation stewardship contract by:

(i) Installing and adopting additional conservation activities, and

(ii) Improving, maintaining, and managing existing conservation activities across the entire agricultural operation in a manner that increases or extends the conservation benefits in place at the time the contract application is accepted by NRCS;

(3) Provides a map, aerial photograph, or overlay that:

(i) Identifies the applicant's agricultural operation, and

(ii) Delineates eligible land with associated acreage amounts.

(c) *Evaluation of contract applications.* NRCS will conduct one or more ranking periods each fiscal year.

(1) To the extent practicable, one ranking period will occur in the first quarter of the fiscal year;

(2) In evaluating CSP applications, NRCS will rank applications based on the following factors, to the maximum extent practicable:

(i) Level of conservation treatment on all applicable priority resource concerns at the time of application,

(ii) Degree to which the proposed conservation activities effectively increase conservation performance,

(iii) Number of applicable priority resource concerns proposed to be treated to meet or exceed the stewardship threshold by the end of the contract,

(iv) Extent to which other priority resource concerns will be addressed to meet or exceed the stewardship threshold by the end of the contract period, and

(v) Extent to which priority resource concerns will be addressed when transitioning from the conservation reserve program to agricultural production;

(3) In the event that application ranking scores from paragraph (2) above are similar, the application that represents the least cost to the program will be given higher priority; and

(4) NRCS may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

(d) *Weighting of ranking factors.* The weight given to each ranking factor may be adjusted to achieve program objectives, as determined by the Chief.

(e) *National, State, and local priorities.* The Chief may develop and use additional criteria that are determined necessary to ensure that national, State, and local priority resource concerns are effectively addressed.

(f) *Ranking pools.* Ranking pools will be established in accordance with § 1470.2(e)(1).

(1) NIPF will compete in ranking pools separate from other eligible land. An applicant with both NIPF and other eligible land will submit one application for NIPF and one application for all other eligible land.

(2) An applicant with an agricultural operation that crosses ranking pool boundaries will make application and be ranked in the ranking pool where the largest acreage portion of their operation occurs.

(3) Within each State or established ranking pool, NRCS will address conservation access for certain farmers or ranchers, including:

(i) Socially disadvantaged farmers or ranchers,

(ii) Beginning farmers or ranchers, and

(iii) Producers who are veteran farmers or ranchers.

(g) *Application pre-approval.* NRCS will make application pre-approval determinations during established ranking periods based on eligibility and ranking score.

(h) *Field verification.* NRCS will conduct onsite field verification prior to entering into an agreement to substantiate the accuracy of the information provided by pre-approved applicants during the application process.

§ 1470.21 Contract requirements.

(a) After a determination that the application will be approved and a conservation stewardship plan will be developed in accordance with § 1470.22, NRCS will enter into a conservation stewardship contract with the participant to enroll all of the eligible land on a participant's agricultural operation.

(b) The conservation stewardship contract will:

(1) Provide for payments over a period of 5 years;

(2) Incorporate by reference the conservation stewardship plan;

(3) State the payment amount NRCS agrees to make to the participant annually, subject to the availability of funds;

(4) Incorporate all provisions as required by law or statute, including requirements that the participant will:

(i) Implement the conservation stewardship plan as described in § 1470.22,

(ii) Operate and maintain conservation activities on the agricultural operation consistent with § 1470.23,

(iii) Comply with the terms of the contract or documents incorporated by reference into the contract,

(iv) Refund as determined by NRCS, any program payments received with interest, and forfeit any future payments under the program, upon the violation of a term or condition of the contract, consistent with § 1470.27,

(v) Refund as determined by NRCS, all program payments received with interest, upon the transfer of the right and interest of the participant, in land subject to the contract, unless the transferee of the right and interest agrees to assume all obligations of the contract, consistent with § 1470.25,

(vi) Maintain and supply information as requested by NRCS, to determine compliance with the conservation stewardship plan and any other requirements of the program, and

(vii) Not to conduct any activities on the agricultural operation that would tend to defeat the purposes of the program;

(5) Permit all economic uses of the eligible land that:

(i) Maintain the agricultural or forestry nature of the land, and

(ii) Are consistent with the conservation purposes of the contract;

(6) Include a provision to ensure that a participant will not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the participant, including a disaster or related condition, as determined by NRCS; and

(7) Include such other provisions as NRCS determines necessary to ensure the purposes of the program are achieved.

§ 1470.22 Conservation stewardship plan.

(a) NRCS will use the conservation planning process as outlined in the National Planning Procedures Handbook to encourage participants to address resource concerns in a comprehensive manner.

(b) The conservation stewardship plan will contain a record of the participant's decisions that describes the schedule of

conservation activities to be implemented, managed, or improved under the conservation stewardship contract. The plan will describe the program purposes to be achieved through one or more conservation activities.

(c) Associated supporting information maintained with the participant's plan will include:

(1) Documentation that will be the basis for:

(i) Identifying and inventorying priority resource concerns,

(ii) Establishing benchmark data on the condition of existing conservation activities,

(iii) Describing conservation activities to be implemented, managed, or improved, and

(iv) Documenting the participant's conservation objectives to reach and exceed stewardship thresholds;

(2) A plan map delineating the land area identified and included in the program contract with associated acreage amounts;

(3) In the case where a participant wishes to initiate or retain organic certification, documentation that will support the participant's transition to or participation in the National Organic Program; and

(4) Other information as determined appropriate by NRCS.

§ 1470.23 Conservation activity operation and maintenance.

The participant will maintain and manage existing conservation activities across the entire agricultural operation to at least the level of conservation performance identified at the time of enrollment for the conservation stewardship contract period, and additional activities installed and adopted over the term of the conservation stewardship contract.

§ 1470.24 Payments.

(a) *Annual payments.* Subject to the availability of funds, NRCS will provide, as appropriate, annual payments under the program to compensate a participant for installing and adopting additional conservation activities, and improving, maintaining, and managing existing conservation activities across the entire agricultural operation in a manner that increases or extends the conservation benefits in place at the time the contract offer is accepted by NRCS. A split-rate annual payment structure is used to provide separate payments for additional and existing conservation activities in order to place emphasis on implementing additional conservation.

(1) To receive annual payments, a participant must:

(i) Install and adopt additional conservation activities as scheduled in the conservation stewardship plan. At least one additional conservation activity must be scheduled, installed, and adopted in the first fiscal year of the contract. All enhancements must be scheduled, installed, and adopted by the end of the third fiscal year of the contract. Installed enhancements must be maintained for the remainder of the contract period and adopted enhancements must recur for the remainder of the contract period.

(ii) At a minimum, maintain activities to the level of existing conservation performance identified at the time of enrollment for the conservation stewardship contract period, and

(2) To earn annual payments for an eligible land use, a participant must schedule, install, and adopt at least one additional conservation activity on that land-use type. Eligible land-use types that fail to have at least one additional conservation activity scheduled, installed, and adopted will not receive annual payments;

(3) A participant's annual payments will be determined using the conservation performance computed by land-use type for eligible land earning payments. Conservation performance is prorated over the contract term so as to accommodate, to the extent practicable, participants earning equal annual payments in each fiscal year;

(4) The annual payment rates will be based to the maximum extent practicable, on the following factors:

(i) Costs incurred by the participant associated with planning, design, materials, installation, labor, management, maintenance, or training,

(ii) Income foregone by the participant,

(iii) Expected conservation benefits,

(iv) The extent to which priority resource concerns will be addressed through the installation and adoption of conservation activities on the agricultural operation,

(v) The level of stewardship in place at the time of application and maintained over the term of the contract,

(vi) The degree to which the conservation activities will be integrated across the entire agricultural operation for all applicable priority resource concerns over the term of the contract, and

(vii) Such other factors as determined by the Chief.

(5) The annual payment will accommodate some participant operational adjustments.

(i) Enhancements may be replaced with similar enhancements without adjustment of annual payment as long as the conservation performance is determined by NRCS to be equal to or better than the conservation performance of the additional enhancements offered at enrollment. An enhancement replacement that results in a decline below that conservation performance level will be considered a violation of the contract, and

(ii) Adjustments to existing activities may occur consistent with conservation performance requirements from § 1470.23; and

(6) Conservation activities may be applied on other land included in an agricultural operation, as determined by NRCS.

(b) *Supplemental payments.* Subject to the availability of funds, NRCS will provide a supplemental payment to a participant receiving annual payments, who also agrees to adopt or improve a resource-conserving crop rotation as defined by NRCS to achieve beneficial crop rotations as appropriate for the eligible land of the participant.

(1) NRCS will determine whether a resource-conserving crop rotation is eligible for supplemental payments based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits;

(2) A participant must adopt or improve the resource-conserving crop rotation for the term of the contract to be eligible to receive a supplemental payment. A resource-conserving crop rotation is considered adopted when the resource-conserving crop is planted on at least one-third of the rotation acres. The resource-conserving crop must be adopted by the third fiscal year of the contract and planted on all rotation acres by the fifth fiscal year of the contract; and

(3) The supplemental payment is to encourage a producer to adopt or improve a resource-conserving crop rotation and will be based, to the maximum extent practicable, on the factors from § 1470.24(a)(4).

(c) *Minimum contract payment.* NRCS will make a minimum contract payment to participants who are historically underserved producers, at a rate determined by the Chief in any fiscal year that a contract's payment amount total is less than $1,000.

(d) *Timing of payments.* NRCS will make payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year. For newly enrolled contracts, payments will be made as soon as practicable after October 1 following the fiscal year of enrollment.

(e) *Noncompensatory matters.* A CSP payment to a participant will not be provided for:

(1) New conservation activities applied with financial assistance through other USDA conservation programs;

(2) The design, construction, or maintenance of animal waste storage or treatment facilities, or associated waste transport or transfer devices for animal feeding operations; or

(3) Conservation activities for which there is no cost incurred or income foregone by the participant.

(f) *Payment limits.* A person or legal entity may not receive, directly or indirectly, payments that, in the aggregate, exceed $40,000 during any fiscal year for all CSP contracts entered into, and $200,000 under all CSP contracts entered into during fiscal years 2014 through 2018, excluding funding arrangements with Indian tribes, regardless of the number of contracts entered into under the CSP by the person or legal entity. NRCS may waive the annual payment limitations in this section where NRCS determines that due to circumstances beyond the participant's control, payment for implementation for a fiscal year's activities cannot be made as scheduled under the CSP contract.

(g) *Contract limits.* Each conservation stewardship contract will be limited to $200,000 over the term of the initial contract period, except that conservation stewardship contracts with joint operations will be limited to $80,000 per fiscal year and $400,000 over the term of the initial contract period.

(h) *Payment and contract limitation provisions for individual Indians and Indian Tribes.* Payment limitations apply to individual tribal member(s) when applying and subsequently being granted a contract as an individual(s). Contracts with Indian Tribes are not subject to payment or contract limitations. Indian Tribes and BIA will certify in writing that no one individual, directly or indirectly, will receive more than the payment limitation. Certification provided at the time of enrollment will cover the entire contract period. The Tribal entity must also provide, upon request from NRCS, a listing of individuals and payment made, by Social Security number or other unique identification number, during the previous year for calculation of overall payment limitations.

(i) *Tax Identification Number.* To be eligible to receive a CSP payment, all legal entities or persons applying, either alone or as part of a joint operation, must provide a tax identification number and percentage interest in the legal entity. In accordance with 7 CFR part 1400, an applicant applying as a joint operation or legal entity must provide a list of all members of the legal entity and joint operation and associated embedded entities, along with the members' Social Security numbers and percentage of interest in the joint operation or legal entity. Payments will be directly attributed to legal entity members for the purpose of complying with § 1470.24(f). Applicant applying as a joint operation must provide an EIN for the joint operation to qualify for the contract limit available under § 1470.24(g).

(j) *Unique tax identification numbers.* American Indians, Alaska Natives, and Pacific Islanders may use another unique identification number for each individual eligible for payment. Any participant that utilizes a unique identification number as an alternative to a tax identification number will utilize only that identifier for all CSP contracts to which the participant is a party.

§ 1470.25 Voluntary contract modifications and transfers of land.

(a) NRCS may modify a conservation stewardship contract, if:

(1) The participant agrees to the modification, and

(2) NRCS determines the modification is in the public interest.

(b) NRCS may allow modification to a conservation stewardship contract to accommodate certain changes in the agricultural operation, such as to remove contract acres to be enrolled in CRP, protected by a wetland reserve easement through ACEP, or enrolled in other Federal or State programs that offer greater natural resource protection through an easement, long-term contract, land use restrictions, or similar authority as determined by NRCS. Payments for such modified contracts will be reduced to reflect the modified acreage and performance. Participants will not be subject to liquidated damages or refund of payments received for enrolling land in these programs. NRCS may also approve modification to a conservation stewardship contract to accommodate other limited changes on land that the participant has effective control in response to a participant's request made prior to implementing the change that would take land out of production or convert an area under contract to a different land use. Prior to approval, NRCS must determine that any modification under this section is authorized by the provisions of 16 U.S.C. 3838d–3838g.

(c) A voluntary contract modification under this section will not increase the scheduled annual payments under the program, except to implement an appeal determination or correct an administrative error as approved by NRCS. Successor in interest or other changes made to the structure of an operation are subject to this limitation on contract agreement.

(d) Land under contract will be considered transferred if the participant loses control of the acreage for any reason.

(1) The participant is responsible to notify NRCS prior to any voluntary or involuntary transfer of eligible land under contract;

(2) If all or part of the eligible land under contract is transferred, the contract terminates with respect to the transferred land unless:

(i) The transferor of the land provides written notice within 60 days to NRCS that all duties and rights under the contract have been transferred to, and assumed by, the transferee for the portion of the land transferred, and

(ii) The transferee meets the eligibility requirements of the program, and

(iii) NRCS approves the transfer of all duties and rights under the contract.

§ 1470.26 Contract renewal.

(a) At the end of the initial 5-year contract period, NRCS may allow a participant to renew the contract to receive payments for one additional 5-year period, subject to the availability of funds, if the participant meets criteria from paragraph (b) of this section.

(b) To be considered for contract renewal, the participant must:

(1) Be in compliance with the terms of their initial contract as determined by NRCS;

(2) Add any newly acquired eligible land that is part of the agricultural operation that NRCS determines must be included in the renewal contract, except that any newly enrolled acres will be included in the yearly annual 10 million acre cap on new enrollment;

(3) Agree to adopt and continue to integrate conservation activities across the entire agricultural operation as determine by NRCS; and

(4) Agree, at a minimum, to meet or exceed the stewardship thresholds for at least two additional applicable priority resource concerns on the agricultural operation; or to exceed the stewardship threshold of two existing applicable priority resource concerns that are specified by the Chief in the initial contract by the end of the renewed contract period.

§ 1470.27 Contract violations and termination.

(a) NRCS may terminate a contract:

(1) Without the consent of the participant where it determines that the participant:

(i) Violated the contract; or

(ii) Is unable to comply with the terms of the contract as the result of conditions beyond their control.

(2) With the consent of the participant if NRCS determines that the termination is in the public interest.

(b) NRCS may allow a participant in a contract terminated in accordance with the provisions of paragraph (a) of this section, to retain a portion of any payments received appropriate to the effort the participant has made to comply with the contract, or in cases of hardship, where forces beyond the participant's control prevented compliance with the contract. The condition that is the basis for the participant's inability to comply with the contract must not have existed at the time the contract was executed by the participant. If a participant believes that such a hardship condition exists, the participant may submit a request with NRCS for relief pursuant to this paragraph and any such request must contain documentation sufficient for NRCS to make a determination that this hardship condition exists.

(c) If NRCS determines that a participant is not in compliance with the contract terms or documents incorporated therein, NRCS will notify the participant about the actions the participant must take to be determined in compliance and the consequences of the failure to remedy the violation. NRCS will provide a reasonable period of time for the participant to complete all necessary actions, not to exceed one year. NRCS may authorize an additional period of time if NRCS determines that the participant is willing and able to comply but has not been able to complete the necessary actions during the initial period of time as a result of conditions beyond their control. If a participant continues in violation, NRCS may terminate the CSP contract in accordance with paragraph (e) of this section.

(d) Notwithstanding the provisions of paragraph (c) of this section, a contract termination will be effective immediately upon a determination by NRCS that the participant:

(1) Has submitted false information or filed a false claim;

(2) Engaged in any act, scheme, or device for which a finding of ineligibility for payments is permitted under the provisions of § 1470.36; or

(3) Incurred in a violation of the contract provisions that cannot be corrected in a timeframe established by NRCS.

(e) If NRCS terminates a contract, the participant will forfeit all rights to future payments under the contract, pay liquidated damages, and refund all or part of the payments received, plus interest.

(1) NRCS may require a participant to provide only a partial refund of the payments received if a previously installed conservation activity has achieved the expected conservation performance improvement, is not adversely affected by the violation or the absence of other conservation activities that would have been installed under the contract, and has met the associated operation and maintenance requirement of the activity; and

(2) NRCS will have the option to reduce or waive the liquidated damages, depending upon the circumstances of the case when terminating a contract, NRCS may reduce the amount of money owed by the participant by a proportion that reflects the good faith effort of the participant to comply with the contract or the existence of hardships beyond the participant's control that have prevented compliance with the contract.

Subpart C—General Administration

§ 1470.30 Fair treatment of tenants and sharecroppers.

Payments received under this part must be divided in the manner specified in the applicable contract. NRCS will ensure that tenants and sharecroppers who would have an interest in acreage being offered receive treatment which NRCS deems to be equitable, as determined by NRCS. NRCS may refuse to enter into a contract when there is a disagreement among joint applicants seeking enrollment as to an applicant's eligibility to participate in the contract as a tenant.

§ 1470.31 Appeals.

A participant may obtain administrative review of an adverse decision under this part in accordance with 7 CFR parts 11 and 614. Determinations in matters of general applicability, such as payment rates, payment limits, the designation of identified priority resource concerns, and eligible conservation activities are not subject to appeal.

§ 1470.32 Compliance with regulatory measures.

Participants will be responsible for obtaining the authorities, rights, easements, permits, or other approvals or legal compliance necessary for the implementation, operation, and maintenance associated with the conservation stewardship plan. Participants will be responsible for compliance with all laws and for all effects or actions resulting from the implementation of the contract.

§ 1470.33 Access to agricultural operation.

NRCS, or its authorized representative, will have the right to enter an agricultural operation for the purpose of determining eligibility and for ascertaining the accuracy of any representations, including natural resource information provided by an applicant for the purpose of evaluating a contract application. Access will include the right to provide technical assistance, determine eligibility, assess natural resource conditions, inspect any work undertaken under the contract, and collect information necessary to evaluate the implementation of conservation activities in the contract. NRCS, or its authorized representative, will make an effort to contact the participant prior to the exercise of this provision.

§ 1470.34 Equitable relief.

(a) If a participant relied upon the advice or action of NRCS and did not know, or have reason to know, that the action or advice was improper or erroneous, the participant may be eligible for equitable relief under 7 CFR part 635. The financial or technical liability for any action by a participant that was taken based on the advice of a TSP will remain with the TSP and will not be assumed by NRCS.

(b) If a participant has been found in violation of a provision of the conservation stewardship contract or any document incorporated by reference through failure to comply fully with that provision, the participant may be eligible for equitable relief under 7 CFR part 635.

§ 1470.35 Offsets and assignments.

(a) Any payment or portion thereof due to any participant under this part will be allowed without regard to any claim or lien in favor of any creditor, except agencies of the United States Government. The regulations governing offsets and withholdings found at 7 CFR part 1403 will be applicable to contract payments.

(b) Any participant entitled to any payment may assign such payments in accordance with regulations governing assignment of payment found at 7 CFR part 1404.

§ 1470.36 Misrepresentation and scheme or device.

(a) If NRCS determines that an applicant intentionally misrepresented any fact affecting a CSP determination, the application will be determined ineligible immediately.

(b) A participant who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part will not be entitled to contract payments and must refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403.

(c) A participant will refund to NRCS all payments, plus interest determined in accordance with 7 CFR part 1403, received by such participant with respect to all CSP contracts if they are determined to have:

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation;

(3) Adopted any scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program; or

(4) Misrepresented any fact affecting a program determination.

(d) Participants determined to have committed actions identified in paragraph (c) of this section will have their interest in all CSP contracts terminated.

§ 1470.37 Environmental credits for conservation improvements.

(a) A participant in CSP may achieve environmental benefits that qualify for environmental credits under an environmental credit-trading program. NRCS asserts no direct or indirect interest in these credits. However, NRCS retains the authority to ensure that CSP purposes are met. In addition, any requirements or standards of an environmental market program in which a CSP participant simultaneously enrolls to receive environmental credits must be compatible with the purposes and requirements of the CSP contract and with this part.

(b) The participant must meet all operation and maintenance (O&M) requirements for CSP-funded activities, consistent with §§ 1470.21 and 1470.23. Where activities required under an environmental credit agreement may affect the land and conservation activities under a CSP contract, NRCS recommends that CSP participants request assistance with the development of a compatibility assessment prior to entering into any credit agreement. The CSP contract may be modified in accordance with policies outlined in § 1470.25 provided the modification meet CSP purposes and is in compliance with this part.

(c) CSP participants may not use CSP funds to implement conservation practices and activities that the participant is required to establish as a result of a court order.

Signed this 31 day of October, 2014, in Washington, DC.

Jason A. Weller,

Chief, Natural Resources Conservation Service and Vice President, Commodity Credit Corporation.

[FR Doc. 2014–26295 Filed 11–4–14; 8:45 am]

BILLING CODE 3410–16–P

FEDERAL REGISTER

Vol. 79 Wednesday,

No. 214 November 5, 2014

Part V

The President

Proclamation 9199—Critical Infrastructure Security and Resilience Month, 2014

Proclamation 9200—Military Family Month, 2014

Proclamation 9201—National Adoption Month, 2014

Proclamation 9202—National Alzheimer's Disease Awareness Month, 2014

Federal Register
Vol. 79, No. 214
Wednesday, November 5, 2014

Presidential Documents

Title 3—

The President

Proclamation 9199 of October 31, 2014

Critical Infrastructure Security and Resilience Month, 2014

By the President of the United States of America

A Proclamation

Essential to our national security and economic growth, America's critical infrastructure—from our power plants and pipelines to our hospitals and highways—supports the physical and virtual systems that underpin American society. In a changing world, the increased interdependence of our country's most vital resources and networks has created new opportunities for growth and innovation, but it has also led to greater risk and vulnerability. During Critical Infrastructure Security and Resilience Month, we reflect on the important role our infrastructure plays in building a safe and prosperous Nation, and we recommit to strengthening and protecting these important assets.

The security of our Nation is my top priority, and my Administration is dedicated to preserving and fortifying the systems that support our daily lives. Guided by our Cybersecurity Framework, we are working to protect our critical infrastructure from cyber threats, while promoting an open and reliable cyberspace. In the face of a diverse set of physical risks to our infrastructure—from extreme weather and the impacts of climate change to health pandemics, accidents, and acts of terrorism—we are taking steps to reduce our vulnerabilities. And because the majority of our critical infrastructure is owned and operated by private companies, we are encouraging the private sector to recognize their shared responsibility. As part of our National Infrastructure Protection Plan, we are finding new ways we can strengthen our public-private partnerships to bolster our systems and networks and to better manage risks.

While we cannot always predict the ways in which our infrastructure will be tested, by harnessing an integrated approach to a range of threats and modernizing our cyber and physical infrastructure, we can ensure that one event does not compromise the stability of our entire system. When we invest in 21st century infrastructure, we not only increase our resilience, but also create jobs and expand opportunity for hardworking Americans. That is why earlier this year we launched the Build America Investment Initiative to improve our roads, water systems, electrical grid, and other vital systems. By encouraging innovative financing and increased public-private collaboration, we can build a revitalized, efficient, and secure American infrastructure.

In today's interconnected world, we must all remain dedicated to identifying and deterring threats and hazards to our Nation's critical infrastructure and to mitigating the consequences of incidents that do occur. This month, let us resolve to safeguard and strengthen the systems we rely on every day and to support first-class infrastructure that can sustain America's role as a leader on the world stage.

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 November 2014 as Critical Infrastructure Security and Resilience Month. I call upon the people of the United States to recognize the importance of protecting our

Nation's resources and to observe this month with appropriate events and training to enhance our national security and resilience.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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.

[FR Doc. 2014–26471
Filed 11–4–14; 11:15 am]
Billing code 3295–F5

Presidential Documents

Proclamation 9200 of October 31, 2014

Military Family Month, 2014

By the President of the United States of America

A Proclamation

For more than two centuries, members of our Armed Forces have defended our country with unyielding courage. In our Nation's times of need, these brave patriots step forward to answer America's call, leaving behind everything they know and love. And as they help secure our freedom and democracy, their families sacrifice alongside them. During Military Family Month, we recognize every spouse, parent, sibling, child, and loved one who stands with our service members, and we reaffirm our solemn vow to serve these families as well as they serve us.

The selflessness of our military families tells a story of unfailing duty and devotion. Through long deployments, difficult separations, and moves across the country and overseas, spouses and partners put their careers on hold and children take on extra responsibilities. With grace and resilience, families endure the absence of loved ones and shoulder the burdens of war. And when battle ends and our service members return home, their families support their transition and recovery.

To fulfill our sacred promise to our service members and their loved ones, my Administration continues to make supporting our military families a top priority. This year, we launched the Veterans Employment Center, an interagency resource to connect transitioning service members, veterans, and their spouses to meaningful career opportunities. We are also committed to fostering partnerships with organizations that help military caregivers and making consistent and effective family services available, including mental health care and counseling, deployment and relocation assistance, and child care and youth programs. Through their Joining Forces initiative, First Lady Michelle Obama and Dr. Jill Biden are working to ensure members of our Armed Forces, veterans, and their families have all the opportunities and benefits they deserve. And since 2011, their efforts have encouraged businesses to hire more than 500,000 veterans and military spouses.

Every day, our military families at home and abroad inspire us and remind us of our obligation to take care of those who do so much for our country. As a grateful Nation, we pay tribute to the women and men who have made our military the finest fighting force the world has ever known, and we honor the enduring strength and dedication of their families.

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 November 2014 as Military Family Month. I call on all Americans to honor military families through private actions and public service for the tremendous contributions they make in support of our service members and our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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.

[FR Doc. 2014–26476
Filed 11–4–14; 11:15 am]
Billing code 3295–F5

Presidential Documents

Proclamation 9201 of October 31, 2014

National Adoption Month, 2014

By the President of the United States of America

A Proclamation

Every year, adoptive parents welcome tens of thousands of children and teenagers into supportive and loving families. These mothers and fathers provide their sons and daughters with the security and stability of a safe environment and the opportunity to learn, grow, and achieve their full potential. During National Adoption Month, we honor those who have opened their hearts and their homes, and we recommit to supporting all children still in need of a place to call their own.

Over the past decade, more than 500,000 children have been adopted. However, there are still too many children waiting to be part of an adoptive family. This month—on the Saturday before Thanksgiving—we will observe the 15th annual National Adoption Day, a nationwide celebration that brings together policymakers, practitioners, and advocates to finalize thousands of adoptions and to raise awareness of those still in need of permanent homes.

To help ensure there is a permanent home for every child, my Administration is investing in programs to reduce the amount of time children in foster care wait for adoption and to educate adoptive families about the diverse needs of their children, helping ensure stability and permanency. We are equipping State and local adoption organizations with tools to provide quality mental health services to children who need them, and—because we know the importance of sibling relationships—we are encouraging efforts to keep brothers and sisters together. Additionally, last year I was proud to permanently extend the Adoption Tax Credit to provide relief to adoptive families. By supporting policies that remove barriers to adoption, we give hope to children across America. For all those who yearn for the comfort of family, we must continue our work to increase the opportunities for adoption and make sure all capable and loving caregivers have the ability to bring a child into their life, regardless of their race, religion, sexual orientation, or marital status.

Throughout November, we recognize the thousands of parents and kids who have expanded their families to welcome a new child or sibling, as well as the professionals who offer guidance, resources, and counseling every day. Let us reaffirm our commitment to provide all children with every chance to reach their dreams and realize their highest aspirations.

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 November 2014 as National Adoption Month. I encourage all Americans to observe this month by answering the call to find a permanent and caring family for every child in need, and by supporting the families who care for them.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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.

[FR Doc. 2014–26480
Filed 11–4–14; 11:15 am]
Billing code 3295–F5

Presidential Documents

Proclamation 9202 of October 31, 2014

National Alzheimer's Disease Awareness Month, 2014

By the President of the United States of America

A Proclamation

Across our Nation, as many as 5 million Americans live with Alzheimer's disease—currently an irreversible, incurable, and fatal disease. Together with their loved ones, these individuals experience the tragic realities of a disease that gradually erases cherished memories, affects behavior, and destroys the ability to live independently and carry out the simplest daily tasks. This month, we recognize all those whose lives have been touched by Alzheimer's, and we renew our commitment to making progress in the war against it.

The Federal Government is the world's leading funder of Alzheimer's research, and we are dedicated to finding ways to prevent and effectively treat this devastating disease by 2025. Guided by the National Plan to Address Alzheimer's Disease, my Administration is working to enhance care for Alzheimer's patients, expand support for all people with dementia, and strengthen public-private partnerships to support the Alzheimer's community. We have funded major new clinical trials, helped train health care providers to diagnosis and manage dementia, and launched a new website that serves as a one-stop resource on Alzheimer's issues. And this year, as part of our Brain Research through Advancing Innovative Neurotechnologies (BRAIN) Initiative, we announced new investments to support the research that could unlock the answers to this disease. To learn more about Alzheimer's disease—including risk factors and early signs and symptoms—and to access resources for patients and caregivers, Americans can visit *www.Alzheimers.gov.*

During National Alzheimer's Disease Awareness Month, we join with researchers, health care providers, and patient advocates across our country to lift up all those who are battling this disease every day. As we come together to raise awareness about Alzheimer's, we honor the individuals who lost their lives to it, as well as the devotion and selflessness of the millions of caregivers who endure the financial and emotional strains of this disease. In their spirit, let us continue our work to end this debilitating ailment and its devastating effects.

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 November 2014 as National Alzheimer's Disease Awareness Month. I call upon the people of the United States to learn more about Alzheimer's disease and support the individuals living with this disease and their caregivers.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, 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.

[FR Doc. 2014–26481
Filed 11–4–14; 11:15 am]
Billing code 3295–F5

Reader Aids

Federal Register

Vol. 79, No. 214

Wednesday, November 5, 2014

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

65139–65326 3
65327–65540 4
65541–65862 5

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9199 65855
9200 65857
9201 65859
9202 65861

7 CFR

1470 65836

10 CFR

50 ..... 65541, 65776
429 65351
430 65351
590 65541
Proposed Rules:
50 65603
430 65603

12 CFR

234 65543
1026 65300
Proposed Rules:
704 65353

14 CFR

25 ..... 65508, 65562
33 65508
135 65139
Proposed Rules:
121 65360
145 65360

15 CFR

902 65327

24 CFR

203 65140

25 CFR

Proposed Rules:
169 65360

26 CFR

1 65142
Proposed Rules:
1 65151

33 CFR

117 ..... 65142, 65339
165 65340
Proposed Rules:
110 65361

37 CFR

Proposed Rules:
380 65609

38 CFR

17 65571

39 CFR

601 65342

40 CFR

52 ..... 65143, 65346, 65587, 65589
300 65589
Proposed Rules:
52 ..... 65362, 65366
60 65482
300 65612

41 CFR

Proposed Rules:
60 65613
61 65613

42 CFR

Proposed Rules:
88 65369

44 CFR

64 65148

47 CFR

4 65348
74 65350
Proposed Rules:
0 65371
1 65371
2 65371
15 65371
27 65371
73 65371
74 65371

48 CFR

212 65816
217 65592
225 65816
234 65592
237 65592
252 ..... 65592, 65816

50 CFR

21 65595
216 65327

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List October 9, 2014

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.