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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1493

RIN 0551–AA74

CCC Export Credit Guarantee (GSM–102) Program and Facility Guarantee Program (FGP)

AGENCY: Foreign Agricultural Service and Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations that administer the Export Credit Guarantee (GSM–102) Program and eliminates provisions for the Intermediate Export Credit Guarantee (GSM–103) Program, consistent with the repeal of authority to operate this program in the Food, Conservation, and Energy Act of 2008 (2008 Act). This final rule incorporates program operational changes and information from press releases and notices to participants that have been implemented since the publication of the current rule, and include other administrative revisions to enhance clarity and program integrity. It also incorporates certain comments received in response to proposed rules issued on July 27, 2011, and December 27, 2013. These changes should increase program availability to all program participants and enhance access and encourage sales for smaller U.S. exporters. Changes are also intended to improve CCC's financial management of the program.

DATES: Effective Date: This final rule is effective December 18, 2014.

Applicability Date: The provisions of this final rule will be applied by CCC as follows:

(1) For any payment guarantee associated with an application for payment guarantee received by CCC on or after December 18, 2014, the provisions of this final rule shall immediately apply in their entirety.

(2) For any payment guarantee associated with an application for payment guarantee received by CCC prior to December 18, 2014, the provisions of the previous rule governing the Export Credit Guarantee (GSM–102) Program shall apply.

(3) Notwithstanding (2) above, the provisions of §§ 1493.30, 1493.40, 1493.50, 1493.60, and 1493.192 shall apply to all program participants as of December 18, 2014.

FOR FURTHER INFORMATION CONTACT: Amy Slusher, Deputy Director, Credit Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Stop 1025, Room 5509, Washington, DC 20250–1025; telephone (202) 720–6211.

SUPPLEMENTARY INFORMATION:

Background

The Commodity Credit Corporation's (CCC) Export Credit Guarantee (GSM–102) Program is administered by the Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture (USDA) on behalf of CCC, pursuant to program regulations codified at 7 CFR Part 1493, and through the issuance of ''Program Announcements'' and ''Notices to Participants'' that are consistent with this regulation. The previous regulation became effective on November 18, 1994. Since that time, CCC has implemented numerous operational changes to improve the efficiency of the program, including an automated, Internet-based system for participants and revised program controls to improve program quality, reduce costs, and protect against waste and fraud. Also since that time, agricultural trade and finance practices have evolved. This final rule is intended to reflect these changes and to enhance the overall clarity and integrity of the program. In addition, the 2008 Act repealed the authority to operate the GSM–103 Program, and this change is reflected in the final rule.

On July 27, 2011, CCC published a Proposed Rule in the **Federal Register** (Vol. 76, No. 144, pages 44836–44855). In response to comments received, CCC made several significant changes and issued a second proposed rule on December 27, 2013 (**Federal Register** Vol. 78, No. 249, pages 79254–79282). The deadline for comments on the second proposed rule was January 27, 2014. CCC received comments on the second proposed rule from seven parties, including U.S. exporters and U.S. banks. Comments received on the December 27, 2013, proposed rule and changes made by CCC are discussed below in the Section-by-Section Analysis.

Section-by-Section Analysis

The section-by-section analysis below includes a summary of comments received on the December 27, 2013, proposed rule (hereafter ''proposed rule''), CCC's responses to those comments, and a discussion of any additional changes made by CCC. In some instances, the numbering systems differ between the proposed and final rules. For purposes of this discussion, the numbering system of the final rule will be used, except where otherwise indicated. Defined terms found in the final rule are capitalized.

Subpart B—CCC Export Credit Guarantee (GSM–102) Program Operations

Section 1493.20 Definition of Terms

Eligible Export Sale

One commenter expressed concern that the proposed rule preamble added requirements to the definition of Eligible Export Sale. Because the Exporter is required to certify that a GSM–102 transaction is an Eligible Export Sale, the commenter requested clarification regarding whether the preamble language constitutes additional conditions not contained in the body of the regulation.

The language in the preamble to the proposed rule was intended to explain the reasons for the new requirement that a GSM–102 transaction be an Eligible Export Sale. The preamble itself does not impose additional conditions on participants. An Exporter certifying that a sale is an Eligible Export Sale is specifically certifying that the export sale meets the definition in the rule (i.e., that it is ''an export sale of U.S. Agricultural Commodities in which the obligation of payment for the portion registered under the GSM–102 program arises solely and exclusively from a Foreign Financial Institution Letter of Credit or Terms and Conditions Document issued in connection with a Payment Guarantee.''). The Exporter is not required to certify that a sale

constitutes an expansion of U.S. exports or would not have occurred without the GSM–102 program, nor is this definition intended to preclude brokerage arrangements. CCC will provide clarification on a case-by-case basis to any Exporter as needed to determine whether a particular transaction meets this requirement.

Firm Export Sales Contract

CCC received two comments on the definition of Firm Export Sales Contract. One commenter understood CCC to be requiring the Importer to be the party taking physical possession of and nationalizing the U.S. Agricultural Commodities for customs clearance in the destination country or region. This understanding was based on language in the proposed rule and its preamble referencing the Importer (or Importer's Representative) as ''taking receipt'' of the U.S. Agricultural Commodities shipped under the Payment Guarantee. The commenter noted that this requirement could dramatically reduce Exporters' ability to utilize the program, as often the Exporter sells to a related entity (currently the Importer under the Payment Guarantee), who sells on to the final buyer taking physical possession of the goods. This structure enables the Exporter to pass on greater program benefits to the final buyer and enables multiple commodity shipments to be registered under a single Payment Guarantee, reducing administrative costs. The commenter suggested adding a definition of an ''exporter's representative''—an entity related to the Exporter that sells the commodities to the final buyer in the destination country or region. This new term would meet CCC's objective of requiring the Importer to be the party taking physical possession of the goods while retaining the Exporter's ability to utilize the program. With this new term, the definition of Firm Export Sales Contract would be redefined as a contract between the Exporter and either the ''exporter's representative'' or the Importer.

CCC does not intend to require that the Importer in a GSM–102 transaction be the final buyer taking physical possession of the commodities in the destination country or region. However, CCC agrees that certain language in the proposed rule and preamble, in particular reference to the Importer ''taking receipt of the goods,'' could lead to a misunderstanding regarding CCC's intent. To address this misunderstanding, CCC revised the definition of Importer and modified the provisions of § 1493.70(a)(2) and (3). Those changes are discussed in the relevant sections of this preamble. No changes are necessary to the definition of Firm Export Sales Contract in response to this comment.

A second commenter expressed concern that a Firm Export Sales Contract must be physically signed by both the Exporter and Importer when the Exporter submits an application for a Payment Guarantee. A requirement for a physically signed document at time of application in accordance with § 1493.70(a) could be problematic, as it can take several weeks to obtain final signatures. The commenter clarified that a firm sale always exists at the time of application for the Payment Guarantee as evidenced by acknowledgements or other documentation, but may not include signatures of both the Exporter and Importer at that point.

CCC acknowledges this concern but notes that the definition of Firm Export Sales Contract does not require a physically signed document. The definition states that ''Written evidence of a sale may be in the form of a signed sales contract, a written offer and acceptance between parties, or other documentary evidence of sale.'' Provided the documentation demonstrates evidence of the sale and contains the minimum required information stated in the definition, such documentation need not be physically signed by both parties. No changes are needed to the rule in response to this comment.

Foreign Financial Institution Letter of Credit or Letter of Credit

CCC received one comment on the increasing use of electronic bills of lading (e-BLs) through providers such as Electronic Shipping Solutions (ESS) and Bolero, with a request that the GSM–102 rule specifically allow for e-BLs. CCC agrees and made a number of modifications to the final rule to accommodate e-BLs. The definition of Foreign Financial Institution Letter of Credit requires the Letter of Credit to be subject to the current revision of the Uniform Customs and Practices for Documentary Credits (UCP). The current revision, UCP 600, includes a Supplement to the Uniform Customs and Practice for Documentary Credits for Electronic Presentation (eUCP) to accommodate presentation of electronic records alone or in combination with paper documents. CCC modified the Letter of Credit definition in the final rule to include that, if applicable (i.e., if electronic records are to be used under the Letter of Credit), the provisions of the current revision of eUCP shall apply.

Importer

One commenter suggested modifying this definition to allow the Importer to enter a Firm Export Sales Contract with an ''exporter's representative for onward sale to the Importer. . . .'' This suggestion was made in conjunction with proposed modifications to the definition of Firm Export Sales Contract and addition of an ''exporter's representative.'' As noted in the analysis of the definition of Firm Export Sales Contract, CCC determined that it is not necessary to add ''exporter's representative'' to the rule, and this change is not needed to the Importer definition. However, CCC modified the definition of Importer in response to participant concerns that CCC is now requiring the Importer to be the final buyer in the destination country or region. The revised definition allows for the U.S. Agricultural Commodities ''to be shipped from the United States to the destination country or region under the Payment Guarantee.'' CCC believes this change will allow a final buyer other than the Importer to physically receive the goods in the destination country or region.

Importer's Representative

One commenter noted that some countries do not require registration of an Importer's Representative and requested the definition be modified to allow this entity to ''be organized under the laws of'' the destination country or region. CCC agrees and has modified this definition accordingly.

Intervening Purchaser

One commenter suggested modifying this definition to allow the Intervening Purchaser to enter a Firm Export Sales Contract with an Exporter and sell the same commodities to either an Importer or an ''exporter's representative.'' This suggestion was made in conjunction with proposed modifications to the definition of Firm Export Sales Contract and addition of an ''exporter's representative.'' As noted in the analysis of the definition of Firm Export Sales Contract, CCC determined that it is not necessary to add ''exporter's representative'' to the rule, and this change is not needed to the Intervening Purchaser definition.

OFAC (Office of Foreign Assets Control)

The proposed rule required participants to make certifications in certain submissions that neither the Importer, the Intervening Purchaser, nor the Foreign Financial Institution is present on the OFAC or the U.S. Government's System for Awards Management (SAM) Web site. SAM is

the primary database of vendors doing business with the Federal Government, including entities that are excluded from doing business with the government. Since publication of the proposed rule, CCC determined that SAM fully incorporates all excluded entities from the OFAC list; therefore, it is not necessary for participants to check separately for entities on the OFAC list and certify that they have done so. Checking the SAM list is sufficient. CCC removed all references to OFAC in the final rule.

SAM (System for Award Management)

CCC clarified the certifications in §§ 1493.80(d), 1493.120(c)(1)(i) and (f)(2)(iii), and 1493.140(d) requiring confirmation that certain entities are not present on the SAM list. SAM not only includes entities that are excluded from doing business with the Federal Government, but also entities that are registered and eligible to do business with the Federal Government. An excluded entity is denoted in SAM as ''Exclusion.'' The certifications were modified to state that the GSM–102 participant has verified that the relevant entity ''is not present as an excluded party on the SAM list.''

One commenter asked for clarification regarding when Exporters are required to check SAM and what proof the Exporter should maintain to document this check.

The Exporter must certify on the application for Payment Guarantee that neither the Importer nor the Intervening Purchaser is present on the SAM list (§ 1493.80(d)). To make this certification, the Exporter must perform this check immediately prior to submitting the application for Payment Guarantee. Similarly, the Exporter should perform this check, if required, just prior to submitting an Evidence of Export report, consistent with § 1493.140(d). The Exporter need not maintain specific documentation that the SAM list has been checked. In accordance with government-wide suspension and debarment regulations found at 2 CFR Part 180, CCC will check SAM for all parties after receiving an application for Payment Guarantee, a notice of assignment, and an Evidence of Export report (if applicable). Sufficient information is available in SAM or through contact with other U.S. Government agencies to determine when an entity was excluded through SAM, and thus to determine whether the Exporter likely checked these lists as required. An Exporter wishing to maintain such documentation, however, might consider keeping printouts of SAM searches.

Section 1493.50 Information Required for Foreign Financial Institution Participation

In paragraph (d) of this section, CCC added that when a Foreign Financial Institution (FFI) submits annual year-end financial statements for CCC to determine continued eligibility, the FFI must also re-submit the certifications in § 1493.60. This change is consistent with requirements on Exporters and U.S. Financial Institutions throughout the rule, who must re-certify the information provided at qualification when certain documents are submitted to CCC. CCC also added Foreign Financial Institutions to the provision in § 1493.191(c) (*Submission of documents by Principals*), as CCC requires these certifications to be made by a Principal (or designee) of the Foreign Financial Institution.

Section 1493.60 Certifications Required for Program Participation

One commenter asked whether adherence (and documentation of adherence) to the Foreign Corrupt Practices Act is a requirement of Foreign Financial Institutions in addition to U.S. Financial Institutions and Exporters.

The certification for program participation found in § 1493.60(b)(2), which must be made by all U.S. and Foreign Financial Institutions, states that ''All U.S. operations of the applicant and its U.S. Principals are in compliance with U.S. anti-money laundering and terrorist financing statutes including, but not limited to, the USA Patriot Act of 2001, and the Foreign Corrupt Practices Act of 1977.'' Therefore, to the extent that a Foreign Financial Institution has U.S. operations and U.S. Principals, these operations and Principals are required to adhere to the Foreign Corrupt Practices Act and otherwise be in compliance with U.S. law as specified in this certification. There is no particular documentation required by the U.S. or Foreign Financial Institution to demonstrate such compliance.

Section 1493.70 Application for Payment Guarantee

One commenter suggested modifying paragraph (a)(2) of this section to require either the name of the Importer or the ''exporter's representative,'' consistent with suggested changes to the Firm Export Sales Contract definition. As noted in the analysis of the Firm Export Sales Contract definition, CCC believes it is unnecessary to add ''exporter's representative'' to the rule and this change is not needed. However, CCC modified this provision in response to concerns that CCC is now requiring the Importer to be the final buyer in the destination country or region. Consistent with the change to the Importer definition, CCC removed the reference to the Importer or Importer's Representative ''taking receipt'' of goods in the destination country or region. Instead, the Importer (or Importer's Representative, if applicable) must be physically located in the country or region of destination.

CCC received one comment on paragraph (a)(3) expressing concern that this statement lacks clarity, specifically with respect to regional programs. The commenter is concerned that if the Importer (or Importer's Representative) under a regional program is located in a country other than where goods are discharged, the Importer (or Importer's Representative) cannot take receipt of the goods. CCC agrees and modified this statement to reflect that the goods must be ''shipped directly to the destination country or region.'' This change eliminates the requirement that either the Importer or Importer's Representative take physical receipt of the goods, and allows for these entities to be located anywhere in the destination country or region. This modification also accounts for cases where the final buyer of the goods—who may not be the Importer—may take physical receipt of the goods at destination.

One commenter requested that because paragraph (a)(4) allows the Letter of Credit to be opened by a party other than the Importer, CCC consider modifying the current language on the GSM–102 Payment Guarantee, which states ''The contractual obligation of the foreign importer to the exporter for the portion of the port value of the export sale(s) for which credit is extended to the foreign bank must be secured by an irrevocable letter of credit.'' CCC agrees and will review the GSM–102 Payment Guarantee to determine whether other changes are needed as a result of new regulatory language.

One commenter suggested modifying paragraph (a)(8) of this section to require either the name of the Importer or the ''exporter's representative,'' consistent with suggested changes to the Firm Export Sales Contract definition. As noted in the analysis of the Firm Export Sales Contract definition, CCC believes it is unnecessary to add ''exporter's representative'' to the rule and this change is not needed.

CCC received one comment requesting elimination of the requirement in paragraph (a)(9) for the Exporter to ensure the commodity grade and quality specified in the Exporter's

application for Payment Guarantee is consistent with the Firm Export Sales Contract and Letter of Credit. The commenter contended that this provision is inconsistent with standard banking practice and the UCP 600, and emphasized that the Exporter or Holder of the Payment Guarantee must be assured CCC will honor the payment guarantee if documents are accepted for payment under the Letter of Credit.

CCC opted to maintain paragraph (a)(9) in the final rule. In response to comments received to the first proposed rule, CCC moved this provision from § 1493.90 (*Special Requirements of the Foreign Financial Institution Letter of Credit and the Terms and Conditions Document, if applicable*). In doing so, CCC acknowledged that the sales contract is a separate transaction from the Letter of Credit, and therefore the U.S. Financial Institution should not be responsible for ensuring consistency of the Letter of Credit with the underlying sales contract. However, CCC believes this requirement is important to avoid defaults based on failure to comply with the underlying terms of the sale and will maintain the requirement in § 1493.70(a)(9). CCC notes that § 1493.191(b) requires all Exporters and U.S. and Foreign Financial Institutions to review and be fully acquainted with all GSM–102 program regulations. As the Exporter should be working with the Importer, U.S. and Foreign Financial Institutions, and other parties (such as the Letter of Credit applicant) prior to application for the Payment Guarantee, all parties to the transaction should be familiar with this requirement.

CCC did modify paragraph (a)(9) in the final rule, changing ''consistent with'' to ''correspond with.'' Article 18 of the UCP 600 uses this language, requiring that the ''Description of the goods, services or performance in a commercial invoice must correspond with that appearing in the credit.'' It is not CCC's intent that the Letter of Credit contain every detail of a commodity description, as CCC acknowledges that certain commodities have very detailed and lengthy specifications. However, CCC expects commodity descriptions across the Firm Export Sales Contract, application for Payment Guarantee, and Letter of Credit to contain the commodity's primary price determining characteristics and to correspond closely enough that they are reasonably considered the same grade and type of commodity. CCC also added a requirement that the commodity description include the six-digit Harmonized System commodity classification code utilized by the Exporter. This addition will assist CCC with better tracking of commodities under the program.

The Agricultural Act of 2014 eliminated authority for the Dairy Export Incentive Program. As a result, paragraph (a)(18) of this section was deleted and the final rule renumbered.

Section 1493.80 Certification Requirements for Obtaining Payment Guarantee

CCC received one comment on the certification in paragraph (b) of this section. The commenter is concerned that this certification might preclude transactions where the Exporter is obligated to pay a commission or other compensation to an agent of the Importer or final buyer. The commenter requested that CCC clarify that arms-length payments to agents are not ''items extraneous to the transaction.''

CCC previously issued clarification in a notice to participants that when an Importer requires an Exporter to employ and compensate a specified agent as a condition of concluding an export sale, such commissions/compensation are treated by CCC as Discounts and Allowances that must be reported in accordance with § 1493.70(a)(12) and deducted from both the Exported Value and Port Value in accordance with § 1493.10. Such commissions/compensation are therefore not considered by CCC to be ''items extraneous to the transaction.'' Although CCC understands the need for clarity, it is not possible to include in the rule all items that might constitute ''items extraneous to the transaction.'' CCC is not making any changes to this certification but will examine specific items on a case-by-case basis.

Section 1493.90 Special Requirements of the Foreign Financial Institution Letter of Credit and the Terms and Conditions Document, if Applicable

CCC received three comments on the requirement that the Letter of Credit stipulate presentation of at least one original clean on board bill of lading as a required document (paragraph (a)(1) in the proposed rule). Two commenters noted that this requirement would jeopardize program utilization. Export sales to destinations with short transit times typically utilize copies of shipping documents for the Letter of Credit. Original documents are provided directly to the destination for safe keeping, to be released to the appropriate party once payment is received under the Letter of Credit. This process helps to avoid demurrage charges that could accrue if parties are waiting for the arrival of original documents. Requiring that an original bill of lading be presented under the Letter of Credit would slow import procedures and negate the potential value offered by the GSM–102 program. One commenter requested this provision be deleted. A third commenter agreed with CCC that requiring presentation of an original bill of lading in the Letter of Credit will help to prevent non-Eligible Export Sales, but noted there are legitimate cases when original clean on board bills of lading are not available due to time, technical or administrative constraints. This commenter suggested CCC make an exception to this requirement when the Exporter is indicated as the shipper on the clean onboard bill of lading. In this instance, the Letter of Credit could allow for copies of the bill of lading.

CCC's intent in requiring the Letter of Credit to stipulate presentation of an original bill of lading is to prevent non-Eligible Export Sales. Although the final rule includes a provision specifically prohibiting non-Eligible Export Sales, CCC believes additional provisions are necessary. However, CCC agrees that where the Exporter is the shipper on the bill of lading, this would indicate that the GSM–102 transaction is an Eligible Export Sale and therefore an original bill of lading need not be required under the Letter of Credit. CCC has modified § 1493.90(a) to allow for this exception, including when a company related to the Exporter (as reported in § 1493.30(a)(5)) is indicated as the shipper on the bill of lading.

CCC also modified paragraph (a) of this section to account for the use of electronic bills of lading (eBLs). CCC acknowledges that when utilizing eBLs, the only ''original'' bill of lading is the electronic version—which is only accessible to parties with access to the eBL vendor. Therefore, in cases where the Letter of Credit allows for presentation of electronic documents, the Letter of Credit may stipulate that a copy of the bill of lading is acceptable.

CCC received one comment on paragraph (a)(3)(ii) of this section in the proposed rule, requesting that CCC modify this provision to clarify that the Terms and Conditions Document is between the Foreign and U.S. Financial Institutions, as the Exporter will not be a party to this document. No changes were made in response to this comment. There is no requirement that the Exporter assign a Payment Guarantee to a U.S. Financial Institution. If there is no assignment, the Exporter would remain the Holder of the Payment Guarantee and be a party to any Terms and Conditions Document.

One commenter noted concern with § 1493.90(b)(2) in the proposed rule,

which requires a clause in the Letter of Credit regarding specific jurisdiction in any legal action or proceeding under the Letter of Credit. The commenter stated that the Exporter will not know when applying for the Payment Guarantee whether the Foreign Financial Institution is willing to include this language in the Letter of Credit, which could in turn cause delays in issuing the Letter of Credit. The commenter further asked that CCC refund the guarantee fees to the Exporter if the Foreign Financial Institution refuses to issue the Letter of Credit because of this language, or if the Letter of Credit cannot be issued within 30 days of the Date of Export due to this language.

CCC believes that the Foreign Financial Institution should know in advance whether it is willing to include this language in the Letter of Credit, and, therefore, whether it is willing to participate in the transaction. Section 1493.191(b) requires all Exporters and U.S. and Foreign Financial Institutions to review and be fully acquainted with all regulations related to the GSM–102 program. All participating Foreign Financial Institutions should be aware of this requirement, and should not agree to participate in the transaction if unwilling to include this language in the Letter of Credit. CCC will not agree in advance to refund guarantee fees to an Exporter in cases where the Foreign Financial Institution cannot include the required language in the Letter of Credit or issue the Letter of Credit within the required timeframe. As specified in § 1493.110(d), fees will only be refunded if the Director determines that a refund is in the best interest of CCC. All determinations on fee refunds will be made on a case-by-case basis.

Section 1493.100 Terms and Requirements of the Payment Guarantee

CCC received one comment on paragraph (e) of this section, requesting that the latest date to release reserves be amended to the latter of 45 days from the final date to export or 30 days from the date of issuance of the Letter of Credit. When bulk products are sold in one shipment for delivery to multiple buyers, the individual bills of lading are often not available until near the time the vessel reaches its destination, which could be 30–40 days from the time the vessel leaves the load port. Until all bills of lading are issued, the Exporter is unable to determine what reserve coverage is needed for a particular guarantee and cannot file the necessary amendment to the Payment Guarantee. Furthermore, the 21 calendar day requirement for filing for reserves is inconsistent with the 30 calendar days permitted for Letter of Credit issuance.

CCC does not agree with the suggestion to allow 45 days from the final date to export (or 30 days from the date of issuance of the Letter of Credit) to file amendments for reserve coverage. As noted in the preamble to the proposed rule, reserve coverage permits an Exporter to hold program allocation that may not be utilized and could be made available to other Exporters. Given that CCC allows reserve coverage of up to ten percent of the Port Value of the sale, this reserve may be a substantial amount. However, CCC acknowledges that an Exporter may need more than 21 calendar days from the final date to export to compile documents and determine reserves needed, and also that there is logic in having similar timeframes related to reserve coverage, evidence of export report, and Letter of Credit issuance timeframes. Therefore, CCC increased the timeframe for filing an amendment for reserve coverage to 30 calendar days from the date of final export. CCC also changed the language in this paragraph to state that if the amendment to the guarantee and additional fee for reserves is not received within this 30 calendar days, CCC *may* (instead of ''will'') cancel the reserve coverage. This change will provide more flexibility in cases where unusual circumstances exist.

CCC received one comment requesting that the timeframe for issuance of the Letter of Credit be extended to 60 days from the Date of Export under paragraph (g)(3) of this section. The commenter noted that the time needed to obtain bills of lading, the internal and external financial institution processes related to issuance and approval of the Letter of Credit, and new language required by CCC in the Letter of Credit or Terms and Conditions Document may result in delays in Letter of Credit issuance. The Exporter will be unable to predict these delays at the time of application for a Payment Guarantee. The commenter also questioned how a delay in issuance of the Letter of Credit increases CCC's risk and expressed concern about forfeiture of guarantee fees when this timeframe cannot be met.

CCC addressed these concerns in the preamble to the proposed rule in response to similar comments. This provision is intended to eliminate cases where Exporters clearly have not worked with the parties in the transaction before submitting an application for Payment Guarantee and where the Letter of Credit ultimately may not be issued. The ''cost'' of such cancellations is that other Exporters who may have utilized the allocation are unable to do so. This provision is not related to CCC's risk profile, nor is it intended to reduce CCC's risk. The final rule permits the Director to waive this requirement and/or to permit a refund of the guarantee fee if determined to be in CCC's best interest. Furthermore, as previously noted, § 1493.191(b) requires all Exporters and U.S. and Foreign Financial Institutions to review and be fully acquainted with all regulations and other documents related to the GSM–102 program. As the Exporter should be working with the Importer and U.S. and Foreign Financial Institutions prior to application for the Payment Guarantee, all parties to the transaction should be familiar with this requirement in advance of negotiation of the Letter of Credit. CCC made no changes to the final rule in response to this comment.

CCC received one comment regarding § 1493.100(f)(6) in the proposed rule, noting a perceived discrepancy between the language in the proposed rule (which prohibits coverage of an export sale that has been guaranteed by CCC under another Payment Guarantee) and language in the preamble to the proposed rule, which indicates CCC does not believe an exporter could certify that a particular transaction has not been registered by another entity. The commenter did not understand why CCC maintained a certification related to duplicate registrations when the preamble indicates an Exporter could not make such a certification.

CCC believes there is confusion regarding § 1493.100(f)(6). This is not a certification required of the Exporter, but rather a statement that a particular type of transaction is prohibited under the program. CCC agrees that an Exporter registering a particular sale has no way to know if another Exporter has done the same. The introduction to paragraph (f) of this section states that ''An export sale (or portion thereof) is ineligible for Payment Guarantee coverage if at any time CCC determines that: . . . .'' CCC would make a determination of duplicate registrations based on information that only CCC may have. For this reason, CCC is not asking the Exporter to make a certification to this effect.

In reviewing this section, however, CCC determined that this provision is better suited to paragraph (g) of this section. Paragraph (g) defines particular exports that are ineligible under an otherwise valid Payment Guarantee. A single export (shipment) under a Payment Guarantee may be ineligible for coverage under paragraph (g), whereas other exports (shipments) under the

same guarantee may remain eligible for coverage. CCC believes that it is possible for a particular export (shipment) to be registered more than once, even if the entire value of the Payment Guarantee is not. Paragraph (f)(6) in the proposed rule has therefore been moved to paragraph (g)(4) in the final rule. CCC has also added clarification that if such duplicate guarantees (or applications for guarantees) are found to exist, CCC will determine which guarantee (or application) constitutes an Eligible Export Sale.

Section 1493.110 Guarantee Fees

One commenter requested that CCC assure Exporters that if the requirements of § 1493.100(g)(3) or § 1493.90(b)(2) are not met, CCC will refund the guarantee fees paid by the Exporter. CCC will not make a ''blanket'' assurance that Exporters will receive a refund of guarantee fees if these requirements are not met. CCC will consider all requests for guarantee fee refunds on a case-by-case basis, granting them only if the Director determines in a particular case that a refund is in the best interest of CCC, consistent with § 1493.110(d).

Section 1493.130 Evidence of Export

The Agricultural Act of 2014 eliminated authority for the Dairy Export Incentive Program. Paragraph (a)(11) of this section was deleted and the final rule renumbered.

Similar to the addition in § 1493.70(a)(9), CCC added a requirement that the commodity description reported on the evidence of export report include the six-digit Harmonized System commodity classification code utilized by the Exporter. This addition will assist CCC with better tracking of commodities under the program.

CCC received one comment on paragraph (b)(1) of this section, requesting that CCC extend the timeframe for submitting evidence of export reports (EOEs) from 21 calendar days to the latter of 45 days from the final date to export or 30 days from the date of Letter of Credit issuance. The commenter noted that the issues applying to reserve coverage (discussed under § 1493.100) also apply to filing EOEs. As noted in the discussion of § 1493.100(e), CCC acknowledges that Exporters may need more than 21 calendar days from the Date of Export to compile documents and submit an EOE, and also that there is logic in having similar timeframes related to reserve coverage, EOE, and Letter of Credit issuance timeframes. Therefore, CCC increased the timeframe for submitting an EOE to 30 calendar days from the Date of Export.

Section 1493.140 Certification Requirements for the Evidence of Export

Similar to the change in § 1493.70(a)(3), CCC modified the certification at § 1493.140(b) to reflect that the goods were ''shipped directly to the country or region specified on the Payment Guarantee.'' This change is explained in the discussion of § 1493.70 (Application for Payment Guarantee).

Section 1493.160 Notice of Default

CCC received one comment on paragraph (c) of this section. The commenter expressed concern that an Exporter's sales contract may be jeopardized if the Importer is unable to find a different Foreign Financial Institution (FFI) to issue the letter of credit (following a default by the original FFI on the Payment Guarantee). The commenter noted that CCC should honor any Payment Guarantees already issued, as CCC performs a financial analysis of each FFI, and should not issue a Payment Guarantee if there is doubt as to the FFI's creditworthiness.

As stated in the preamble to the proposed rule, CCC recognizes that this provision creates some risk for the exporter who may have conditioned the export sale upon the guarantee. In response to comments on the first proposed rule, CCC modified this provision to allow continued coverage if the Letter of Credit has already been issued. However, CCC has a responsibility to protect against additional loss of taxpayer resources following the default of an FFI on another CCC-guaranteed transaction. CCC does perform a financial analysis of each FFI and will not issue a payment guarantee if there is doubt as to the FFI's creditworthiness, but the economic and financial situation of countries and financial institutions can change rapidly. CCC believes the need to protect taxpayer resources against a certain default is paramount in this case and made no changes in response to this comment.

Section 1493.170 Claims for Default

CCC received one comment requesting that the requirement for a ''negotiable'' bill of lading as a claims document under paragraph (a)(3)(iii) of this section be eliminated, specifically to accommodate electronic bills of lading (copies of which are non-negotiable). CCC determined that it is not necessary to require a ''negotiable'' bill of lading under any GSM–102 transaction; therefore, the word ''negotiable'' was eliminated. CCC maintained the provision that the bill of lading must be signed. As noted in elsewhere in the rule, when e-BLs (or other electronic documents) are utilized in the transaction, the Letter of Credit must so stipulate and is subject to the current version of eUCP. Because the eUCP allows for electronic signatures, CCC will accept e-BLs with electronic signature as ''signed'' bills of lading. CCC added a sentence specifying that if an e-BL is utilized, a print-out of the e-BL from the electronic system with an electronic signature is acceptable.

CCC received one comment requesting the addition of a provision that the Payment Guarantee is binding in cases where payments received by the Assignee from the Foreign Financial Institution (FFI) are subsequently required to be returned due to a law, provision or decree in the FFI's country. Such a law or provision may particularly result from bankruptcy or insolvency proceedings. The commenter notes that although such ''clawback'' situations are rare, the absence of such a provision could undermine U.S. Financial Institutions' faith in the CCC guarantee.

The authorizing statute for the GSM–102 program (Section 202(a) of the Agricultural Trade Act of 1978, as amended (7 U.S.C. 5622(a)), provides that ''the Commodity Credit Corporation may guarantee the repayment of credit made available to finance commercial export sales of agricultural commodities.'' Under a ''clawback'' scenario, the FFI has already repaid the portion of the credit that an insolvency or bankruptcy proceeding subsequently seeks to recoup through law. It is CCC's view that the authorizing statute does not extend to indemnification for all losses arising as a result of bankruptcy or insolvency law or proceedings; therefore, this provision was not added to the final rule.

Section 1493.180 Payment for Default

One commenter requested clarification on language in the proposed rule preamble related to paragraph (e) of this section. The preamble language stated that ''If a prohibited transaction were registered under a payment guarantee, CCC would take action against the exporter, if warranted, but not against the assignee, provided the assignee had no knowledge that the transaction was prohibited.'' The commenter asked if the Assignee must depend on CCC taking action against the Exporter in order to receive payment on a submitted claim.

Per 1493.180(e), CCC's determination that an Assignee is to be held harmless

for any action, omission or statement by the Exporter is based on whether all required claim documents ''appear on their face to confirm with the requirements'' of § 1493.170 and whether the Assignee had any knowledge of the action, omission or statement by the Exporter. CCC's decision to take action against an Exporter is wholly separate from a decision to hold the Assignee harmless and pay a claim. CCC does not believe any clarification is needed to paragraph (e) of this section.

Section 1493.191 Additional Obligations and Requirements

CCC modified paragraph (c) of this section to include Foreign Financial Institutions. All submissions by a Foreign Financial Institution must be signed by a Principal or authorized designee.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. It has been determined to be not significant for the purposes of Executive Order 12866 and was not reviewed by OMB. A cost-benefit assessment of this rule was not completed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule would not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. Before any judicial action may be brought concerning the provisions of this rule, the appeal provisions of 7 CFR part 1493.192 would need to be exhausted. This rule would not be retroactive.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 13132

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

Executive Order 13175

The United States has a unique relationship with Indian Tribes as provided in the Constitution of the United States, treaties, and Federal statutes. On November 5, 2009, President Obama signed a Memorandum emphasizing his commitment to ''regular and meaningful consultation and collaboration with tribal officials in policy decisions that have tribal implications including, as an initial step, through complete and consistent implementation of Executive Order 13175.'' This rule has been reviewed for compliance with E.O. 13175 and CCC worked directly with the Office of Tribal Relations in the rule's development. The policies contained in this rule do not have tribal implications that preempt tribal law.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of rulemaking with respect to the subject matter of this rule.

Environmental Assessment

CCC has determined that this rule does not constitute a major State or Federal action that would significantly affect the human or natural environment. Consistent with the National Environmental Policy Act (NEPA), 40 CFR 1502.4, ''Major Federal Actions Requiring the Preparation of Environmental Impact Statements'' and the regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, no environmental assessment or environmental impact statement was prepared.

Unfunded Mandates

This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandate Reform Act of 1995 (UMRA). Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act of 1995

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 under OMB Control Number 0551–0004.

E-Government Act Compliance

CCC is committed to complying with the E-Government Act to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes. The forms, regulations, and other information collection activities required to be utilized by a person subject to this rule are available at: *http://www.fas.usda.gov.*

List of Subjects in 7 CFR Part 1493

Agricultural commodities, Exports.

For the reasons stated in the preamble, CCC amends 7 CFR part 1493 as follows:

PART 1493—CCC EXPORT CREDIT GUARANTEE PROGRAMS

■ 1. The authority citation for 7 CFR part 1493 continues to read as follows:

Authority: 7 U.S.C. 5602, 5622, 5661, 5662, 5663, 5664, 5676; 15 U.S.C. 714b(d), 714c(f).

■ 2. Subpart A is revised to read as follows:

Subpart A—Restrictions and Criteria for Export Credit Guarantee Program

Sec.

Subpart A—Restrictions and Criteria for Export Credit Guarantee Programs

§ 1493.1 General statement.

This subpart sets forth the restrictions that apply to the issuance and use of Payment Guarantees under the Commodity Credit Corporation (CCC) Export Credit Guarantee (GSM–102) Program and Facility Guarantee Program (FGP), the criteria considered by CCC in determining the annual allocations of Payment Guarantees to be made available with respect to each participating country and region, and the criteria considered by CCC in the review and approval of proposed allocation levels for specific U.S. Agricultural Commodities to these countries and regions.

§ 1493.2 Purposes of programs.

CCC is authorized to issue Payment Guarantees:

(a) To increase exports of U.S. Agricultural Commodities and expand access to trade finance;

(b) To assist countries, particularly developing countries and emerging markets, in meeting their food and fiber needs;

(c) To establish or improve facilities and infrastructure in emerging markets

to expand exports of U.S. Agricultural Commodities; or

(d) For such other purposes as the Secretary of Agriculture determines appropriate.

§ 1493.3 Restrictions on programs and cargo preference statement.

(a) *Restrictions on use of Payment Guarantees.* (1) Payment Guarantees authorized under these regulations shall not be used for foreign aid, foreign policy, or debt rescheduling purposes.

(2) CCC shall not make Payment Guarantees available in connection with sales of U.S. Agricultural Commodities to any country that the Secretary determines cannot adequately service the debt associated with such sale.

(3) CCC shall not make Payment Guarantees available in connection with sales of U.S. Agricultural Commodities financed by any Foreign Financial Institution that CCC determines cannot adequately service the debt associated with such sale.

(b) *Cargo preference laws.* The provisions of the cargo preference laws do not apply to export sales with respect to which Payment Guarantees are issued under these programs.

§ 1493.4 Criteria for country and regional allocations.

The criteria considered by CCC in reviewing proposals for country and regional allocations will include, but not be limited to, the following:

(a) Potential benefits that the extension of Payment Guarantees would provide for the development, expansion, or maintenance of the market for particular U.S. Agricultural Commodities in the importing country;

(b) Financial and economic ability and/or willingness of the country of obligation to adequately service CCC guaranteed debt (''country of obligation'' is the country whose Foreign Financial Institution obligation is guaranteed by CCC);

(c) Financial status of participating Foreign Financial Institutions in the country of obligation as it would affect their ability to adequately service CCC guaranteed debt;

(d) Political stability of the country of obligation as it would affect its ability and/or willingness to adequately service CCC guaranteed debt; and

(e) Current status of debt either owed by the country of obligation or by the participating Foreign Financial Institutions to CCC or to lenders protected by CCC's Payment Guarantees.

§ 1493.5 Criteria for agricultural commodity allocations.

The criteria considered by CCC in determining U.S. Agricultural Commodity allocations within a specific country or regional allocation will include, but not be limited to, the following:

(a) Potential benefits that the extension of Payment Guarantees would provide for the development, expansion or maintenance of the market in the importing country for the particular U.S. Agricultural Commodity under consideration;

(b) The best use to be made of the Payment Guarantees in assisting the importing country in meeting its particular needs for food and fiber, as may be determined through consultations with private buyers and/or representatives of the government of the importing country; and

(c) Evaluation, in terms of program purposes, of the relative benefits of providing Payment Guarantee coverage for sales of the U.S. Agricultural Commodity under consideration compared to providing coverage for sales of other U.S. Agricultural Commodities.

■ 3. Subpart B is revised to read as follows:

Subpart B—CCC Export Credit Guarantee (GSM–102) Program Operations

Sec.

Subpart B—CCC Export Credit Guarantee Program (GSM–102) Operations

§ 1493.10 General statement.

(a) *Overview.* The Export Credit Guarantee (GSM–102) Program of the Commodity Credit Corporation (CCC) was developed to expand U.S. Agricultural Commodity exports by making available Payment Guarantees to encourage U.S. private sector financing of foreign purchases of U.S. Agricultural Commodities on credit terms. The Payment Guarantee issued under GSM–102 is an agreement by CCC to pay the Exporter, or the U.S. Financial Institution that may take assignment of the Payment Guarantee, specified amounts of principal and interest in case of default by the Foreign Financial Institution that issued the Letter of Credit for the export sale covered by the Payment Guarantee. Under the GSM–102 program, maximum repayment terms may vary based on risk of default, as determined by CCC. The program operates in a manner intended not to interfere with markets for cash sales and is targeted toward those countries that have sufficient financial strength so that foreign exchange will be available for scheduled payments. In providing this program, CCC seeks to expand and/or maintain market opportunities for U.S. agricultural exporters and assist long-term market development for U.S. Agricultural Commodities.

(b) *Program administration.* The GSM–102 program is administered under the direction of the General Sales Manager and Vice President of CCC, pursuant to this subpart, subpart A, and any Program Announcements issued by CCC. From time to time, CCC may issue a notice to participants on the USDA Web site to remind participants of the requirements of the GSM–102 program or to clarify the program requirements contained in these regulations in a manner not inconsistent with this subpart and subpart A. Program information, such as eligible U.S. Agricultural Commodities and approved U.S. and Foreign Financial Institutions, is available on the USDA Web site.

(c) *Country and regional program announcements.* From time to time, CCC will issue a Program Announcement on the USDA Web site to announce a GSM–102 program for a specific country or region. The Program Announcement for a country or region will designate specific U.S. Agricultural Commodities or products thereof, or designate that all eligible U.S. Agricultural Commodities are available under the announcement. The Program Announcement will contain any

requirements applicable to that country or region as determined by CCC.

§ 1493.20 Definition of terms.

Terms set forth in this subpart, on the USDA Web site (including in Program Announcements and notices to participants), and in any CCC-originated documents pertaining to the GSM–102 Program will have the following meanings:

Affiliate. Entities are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other or a third person controls or has the power to control both. Control may include, but is not limited to: Interlocking management or ownership; identity of interests among family members; shared facilities and equipment; or common use of employees.

Assignee. A U.S. Financial Institution that has obtained the legal right to make a claim and receive the payment of proceeds under the Payment Guarantee.

Business Day. A day during which employees of the U.S. Department of Agriculture in the Washington, DC metropolitan area are on official duty during normal business hours.

CCC. The Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture, authorized pursuant to the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq).

CCC Late Interest. Interest payable by CCC pursuant to § 1493.180(c).

Cost and Freight (CFR). A customary trade term for sea and inland waterway transport only, as defined by the International Chamber of Commerce, Incoterms 2010 (or as superseded).

Cost Insurance and Freight (CIF). A customary trade term for sea and inland waterway transport only, as defined by the International Chamber of Commerce, Incoterms 2010 (or as superseded).

Date of Export. One of the following dates, depending upon the method of shipment: The on-board date of an ocean bill of lading or the on-board ocean carrier date of an intermodal bill of lading; the on-board date of an airway bill; or, if exported by rail or truck, the date of entry shown on an entry certificate or similar document issued and signed by an official of the government of the importing country.

Date of Sale. The earliest date on which a Firm Export Sales Contract exists between the Exporter, or an Intervening Purchaser, if applicable, and the Importer.

Director. The Director, Credit Programs Division, Office of Trade Programs, Foreign Agricultural Service, or the Director's designee.

Discounts and Allowances. Any consideration provided directly or indirectly, by or on behalf of the Exporter or an Intervening Purchaser, to the Importer in connection with an Eligible Export Sale, above and beyond the commodity's value, stated on the appropriate FOB, FAS, FCA, CFR or CIF basis (or other basis specified in Incoterms 2010, or as superseded), which includes, but is not limited to, the provision of additional goods, services or benefits; the promise to provide additional goods, services or benefits in the future; financial rebates; the assumption of any financial or contractual obligations; commissions where the Importer requires the Exporter to employ and compensate a specified agent as a condition of concluding the Eligible Export Sale; the whole or partial release of the Importer from any financial or contractual obligations; or settlements made in favor of the Importer for quality or weight.

Eligible Export Sale. An export sale of U.S. Agricultural Commodities in which the obligation of payment for the portion registered under the GSM–102 program arises solely and exclusively from a Foreign Financial Institution Letter of Credit or Terms and Conditions Document issued in connection with a Payment Guarantee.

Eligible Interest. The amount of interest that CCC agrees to pay the Holder of the Payment Guarantee in the event that CCC pays a claim for default of Ordinary Interest. Eligible Interest shall be the lesser of:

(1) The amount calculated using the interest rate specified between the Holder of the Payment Guarantee and the Foreign Financial Institution; or

(2) The amount calculated using the specified percentage of the Treasury bill investment rate set forth on the face of the Payment Guarantee.

Exported Value. (1) Where CCC announces Payment Guarantee coverage on a FAS, FCA, or FOB basis and:

(i) Where the U.S. Agricultural Commodity is sold on a FAS, FCA, or FOB basis, the value, FAS, FCA, or FOB basis, port of shipment, of the export sale, reduced by the value of any Discounts and Allowances granted to the Importer in connection with such sale; or

(ii) Where the U.S. Agricultural Commodity was sold on a CFR or CIF basis, point of entry, the value of the export sale, FAS, FCA or FOB, port of shipment, is measured by the CFR or CIF value of the U.S. Agricultural Commodity less the cost of ocean freight, as determined at the time of application and, in the case of CIF sales, less the cost of marine and war risk insurance, as determined at the time of application, reduced by the value of any Discounts and Allowances granted to the Importer in connection with the sale of the commodity; or

(2) Where CCC announces coverage on a CFR or CIF basis, and where the U.S. Agricultural Commodity is sold on a CFR or CIF basis, port of destination, the total value of the export sale, CFR or CIF basis, port of destination, reduced by the value of any Discounts and Allowances granted to the Importer in connection with the sale of the commodity; or

(3) When a CFR or CIF U.S. Agricultural Commodity export sale involves the performance of non-freight services to be performed outside the United States (e.g., services such as bagging bulk cargo) which are not normally included in ocean freight contracts, the value of such services and any related materials not exported from the U.S. with the commodity must also be deducted from the CFR or CIF sales price in determining the Exported Value.

Exporter. A seller of U.S. Agricultural Commodities that is both qualified in accordance with the provisions of § 1493.30 and the applicant for the Payment Guarantee.

Firm Export Sales Contract. The written sales contract entered into between the Exporter and the Importer (or, if applicable, the written sales contracts between the Exporter and the Intervening Purchaser and the Intervening Purchaser and the Importer) which sets forth the terms and conditions of an Eligible Export Sale of the eligible U.S. Agricultural Commodity from the Exporter to the Importer (or, if applicable, the sale of the eligible U.S. Agricultural Commodity from the Exporter to the Intervening Purchaser and from the Intervening Purchaser to the Importer). Written evidence of a sale may be in the form of a signed sales contract, a written offer and acceptance between parties, or other documentary evidence of sale. The written evidence of sale for the purposes of the GSM–102 program must, at a minimum, document the following information: The eligible U.S. Agricultural Commodity, quantity, quality specifications, delivery terms (FOB, C&F, FCA, etc.) to the eligible country or region, delivery period, unit price, payment terms, Date of Sale, and evidence of agreement between Importer (and Intervening Purchaser, if applicable) and Exporter. The Firm Export Sales Contract between the Exporter and the Importer (or, if

applicable, between the Exporter and the Intervening Purchaser and between the Intervening Purchaser and the Importer) may be conditioned upon CCC's approval of the Exporter's application for a Payment Guarantee.

Foreign Financial Institution. A financial institution (including foreign branches of U.S. financial institutions):

(1) Organized and licensed under the laws of a jurisdiction outside the United States;

(2) Not domiciled in the United States; and

(3) Subject to the banking or other financial regulatory authority of a foreign jurisdiction (except for multilateral and sovereign institutions).

Foreign Financial Institution Letter of Credit or Letter of Credit. An irrevocable documentary letter of credit, subject to the current revision of the Uniform Customs and Practices (UCP) for Documentary Credits (International Chamber of Commerce Publication No. 600, or latest revision), and, if electronic documents are to be utilized, the current revision of the Supplement to the Uniform Customs and Practice for Documentary Credits for Electronic Presentation (eUCP) providing for payment in U.S. dollars against stipulated documents and issued in favor of the Exporter by a CCC-approved Foreign Financial Institution.

Free Alongside Ship (FAS). A customary trade term for sea and inland waterway transport only, as defined by the International Chamber of Commerce, Incoterms 2010 (or as superseded).

Free Carrier (FCA). A customary trade term for all modes of transportation, as defined by the International Chamber of Commerce, Incoterms 2010 (or as superseded).

Free on Board (FOB). A customary trade term for sea and inland waterway transport only, as defined by the International Chamber of Commerce, Incoterms 2010 (or as superseded).

GSM. The General Sales Manager, Foreign Agricultural Service, USDA, acting in his or her capacity as Vice President, CCC, or designee.

Guaranteed Value. The maximum amount indicated on the face of the Payment Guarantee, exclusive of interest, that CCC agrees to pay the Holder of the Payment Guarantee.

Holder of the Payment Guarantee. The Exporter or the Assignee of the Payment Guarantee with the legal right to make a claim and receive the payment of proceeds from CCC under the Payment Guarantee in case of default by the Foreign Financial Institution.

Importer. A foreign buyer that enters into a Firm Export Sales Contract with an Exporter or with an Intervening Purchaser for the sale of the U.S. Agricultural Commodities to be shipped from the United States to the destination country or region under the Payment Guarantee.

Importer's Representative. An entity having a physical office and that is either organized under the laws of or registered to do business in the destination country or region specified in the Payment Guarantee and that is authorized to act on the Importer's behalf with respect to the sale described in the Firm Export Sales Contract.

Incoterms. Trade terms developed by the International Chamber of Commerce in Incoterms 2010 (or latest revision) which define the respective obligations of the buyer and seller in a sales contract.

Intervening Purchaser. A party that is not located in the country or region of destination specified in the Payment Guarantee and that enters into a Firm Export Sales Contract to purchase U.S. Agricultural Commodities from an Exporter and sell the same U.S. Agricultural Commodities to an Importer.

Ordinary Interest. Interest (other than Post Default Interest) charged on the principal amount identified in the Foreign Financial Institution Letter of Credit or, if applicable, the Terms and Conditions Document.

Payment Guarantee. An agreement under the GSM–102 program by which CCC, in consideration of a fee paid, and in reliance upon the statements and declarations of the Exporter, subject to the terms set forth in the written guarantee, this subpart, and any applicable Program Announcements, agrees to pay the Holder of the Payment Guarantee in the event of a default by a Foreign Financial Institution on its Repayment Obligation under the Foreign Financial Institution Letter of Credit issued in connection with a guaranteed sale or, if applicable, under the Terms and Conditions Document.

Port Value. (1) Where CCC announces coverage on a FAS, FCA, or FOB basis and:

(i) Where the U.S. Agricultural Commodity is sold on a FAS, FCA, or FOB basis, port of shipment, the value, FAS, FCA, or FOB basis, port of shipment, of the export sale, including the upward loading tolerance, if any, as provided by the Firm Export Sales Contract, reduced by the value of any Discounts and Allowances granted to the Importer in connection with such sale; or

(ii) Where the U.S. Agricultural Commodity was sold on a CFR or CIF basis, port of destination, the value of the export sale, FAS, FCA, or FOB, port of shipment, including the upward loading tolerance, if any, as provided by the Firm Export Sales Contract, is measured by the CFR or CIF value of the U.S. Agricultural Commodity less the value of ocean freight and, in the case of CIF sales, less the value of marine and war risk insurance, reduced by the value of any Discounts and Allowances granted to the Importer in connection with the sale of the commodity.

(2) Where CCC announces coverage on a CFR or CIF basis and where the U.S. Agricultural Commodity was sold on CFR or CIF basis, port of destination, the total value of the export sale, CFR or CIF basis, port of destination, including the upward loading tolerance, if any, as provided by the Firm Export Sales Contract, reduced by the value of any Discounts and Allowances granted to the Importer in connection with the sale of the commodity.

(3) When a CFR or CIF U.S. Agricultural Commodity export sale involves the performance of non-freight services to be performed outside the United States (e.g., services such as bagging bulk cargo), which are not normally included in ocean freight contracts, the value of such services and any related materials not exported from the U.S. with the commodity must also be deducted from the CFR or CIF sales price in determining the Port Value.

Post Default Interest. Interest charged on amounts in default that begins to accrue upon default of payment, as specified in the Foreign Financial Institution Letter of Credit or, if applicable, in the Terms and Conditions Document.

Principal. A principal of a corporation or other legal entity is an individual serving as an officer, director, owner, partner, or other individual with management or supervisory responsibilities for such corporation or legal entity.

Program Announcement. An announcement issued by CCC on the USDA Web site that provides information on specific country and regional programs and may identify eligible U.S. Agricultural Commodities and countries, length of credit periods which may be covered, and other information.

Repayment Obligation. A contractual commitment by the Foreign Financial Institution issuing the Letter of Credit in connection with an Eligible Export Sale to make payment(s) on principal amount(s), plus any Ordinary Interest and Post Default Interest, in U.S. dollars, to an Exporter or U.S. Financial Institution on deferred payment terms consistent with those permitted under

CCC's Payment Guarantee. The Repayment Obligation must be documented using one of the methods specified in § 1493.90.

Repurchase Agreement. A written agreement under which the Holder of the Payment Guarantee may from time to time enter into transactions in which the Holder of the Payment Guarantee agrees to sell to another party Foreign Financial Institution Letter(s) of Credit and, if applicable, Terms and Conditions Document(s), secured by the Payment Guarantee, and repurchase the same Foreign Financial Institution Letter(s) of Credit and Terms and Conditions Documents secured by the Payment Guarantee, on demand or date certain at an agreed upon price.

SAM (System for Award Management). A Federal Government owned and operated free Web site that contains information on parties excluded from receiving Federal contracts or certain subcontracts and excluded from certain types of Federal financial and nonfinancial assistance and benefits.

Terms and Conditions Document. A document specifically identified and referred to in the Foreign Financial Institution Letter of Credit which may contain the Repayment Obligation and other special requirements specified in § 1493.90.

United States or U.S. Each of the States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

U.S. Agricultural Commodity or U.S. Agricultural Commodities. (1)(i) An agricultural commodity or product entirely produced in the United States; or

(ii) A product of an agricultural commodity—

(A) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

(B) That the Secretary determines to be a high value agricultural product.

(2) For purposes of this definition, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

USDA. United States Department of Agriculture.

U.S. Financial Institution. A financial institution (including U.S. branches of Foreign Financial Institutions):

(1) Organized and licensed under the laws of a jurisdiction within the United States;

(2) Domiciled in the United States; and

(3) Subject to the banking or other financial regulatory authority jurisdiction within the United States.

Weighted Average Export Date. The mean Date of Export for all exports within a 30 calendar day period, weighted by the guaranteed portion of the Exported Value of each export.

§ 1493.30 Information required for Exporter participation.

Exporters must apply and be approved by CCC to be eligible to participate in the GSM–102 Program.

(a) *Qualification requirements.* To qualify for participation in the GSM–102 program, an applicant must submit the following information to CCC in the manner specified on the USDA Web site:

(1) For the applicant:

(i) The name and full U.S. address (including the full 9-digit zip code) of the applicant's office, along with an indication of whether the address is a business or private residence. A post office box is not an acceptable address. If the applicant has multiple offices, the address included in the information should be that which is pertinent to the GSM–102 export sales contemplated by the applicant;

(ii) Dun and Bradstreet (DUNS) number;

(iii) Employer Identification Number (EIN—also known as a Federal Tax Identification Number);

(iv) Telephone and fax numbers;

(v) Email address (if applicable);

(vi) Business Web site (if applicable);

(vii) Contact name;

(viii) Statement indicating whether the applicant is a U.S. domestic entity or a foreign entity domiciled in the United States; and

(ix) The form of business entity of the applicant (e.g., sole proprietorship, partnership, corporation, etc.) and the U.S. jurisdiction under which such entity is organized and authorized to conduct business. Such jurisdictions are a U.S. State, the District of Columbia, Puerto Rico, and the territories and possessions of the United States. Upon request by CCC, the applicant must provide written evidence that such entity has been organized in a U.S. State, the District of Columbia, Puerto Rico, or a territory or possession of the United States.

(2) For the applicant's headquarters office:

(i) The name and full address of the applicant's headquarters office. A post office box is not an acceptable address; and

(ii) Telephone and fax numbers.

(3) For the applicant's agent for the service of process:

(i) The name and full U.S. address of the applicant's agent's office, along with an indication of whether the address is a business or private residence;

(ii) Telephone and fax numbers;

(iii) Email address (if applicable); and

(iv) Contact name.

(4) A description of the applicant's business. Applicants must provide the following information:

(i) Nature of the applicant's business (e.g., agricultural producer, commodity trader, consulting firm, etc.);

(ii) Explanation of the applicant's experience/history with U.S. Agricultural Commodities for the preceding three years, including a description of such commodities;

(iii) Explanation of the applicant's experience/history exporting U.S. Agricultural Commodities, including number of years involved in exporting, types of products exported, and destination of exports for the preceding three years; and

(iv) Whether or not the applicant is a ''small or medium enterprise'' (SME) as defined on the USDA Web site;

(5) A listing of any related companies (e.g., Affiliates, subsidiaries, or companies otherwise related through common ownership) currently qualified to participate in CCC export programs;

(6) A statement describing the applicant's participation, if any, during the past three years in U.S. Government programs, contracts or agreements; and

(7) A statement that: ''All certifications set forth in 7 CFR 1493.60(a) are hereby made in this application'' which, when included in the application, will constitute a certification that the applicant is in compliance with all of the requirements set forth in § 1493.60(a). The applicant will be required to provide further explanation or documentation if not in compliance with these requirements or if the application does not include this statement.

(b) *Qualification notification.* CCC will promptly notify applicants that have submitted information required by this section whether they have qualified to participate in the program or whether further information is required by CCC. Any applicant failing to qualify will be given an opportunity to provide additional information for consideration by the Director.

(c) *Previous qualification.* Any Exporter not submitting an application to CCC for a Payment Guarantee for two consecutive U.S. Government fiscal years must resubmit a qualification application containing the information specified in § 1493.30(a) to CCC to

participate in the GSM–102 program. If at any time the information required by paragraph (a) of this section changes, the Exporter must promptly contact CCC to update this information and certify that the remainder of the information previously provided pursuant to paragraph (a) has not changed.

(d) *Ineligibility for program participation.* An applicant may be ineligible to participate in the GSM–102 program if such applicant cannot provide all of the information and certifications required by paragraph (a) of this section.

§ 1493.40 Information required for U.S. Financial Institution participation.

U.S. Financial Institutions must apply and be approved by CCC to be eligible to participate in the GSM–102 Program.

(a) *Qualification requirements.* To qualify for participation in the GSM–102 Program, a U.S. Financial Institution must submit the following information to CCC in the manner specified on the USDA Web site:

(1) Legal name and address of the applicant;

(2) Dun and Bradstreet (DUNS) number;

(3) Employer Identification Number (EIN—also known as a Federal Tax Identification Number);

(4) Year-end audited financial statements for the applicant's most recent fiscal year;

(5) Breakdown of the applicant's ownership as follows:

(i) Ten largest individual shareholders and ownership percentages;

(ii) Percentage of government ownership, if any; and

(iii) Identity of the legal entity or person with ultimate control or decision making authority, if other than the majority shareholder.

(6) Organizational structure (independent, or a subsidiary, Affiliate, or branch of another financial institution);

(7) Documentation from the applicable United States Federal or State agency demonstrating that the applicant is either licensed or chartered to do business in the United States;

(8) Name of the agency that regulates the applicant and the name and telephone number of the primary contact for such regulator; and

(9) A statement that: ''All certifications set forth in 7 CFR 1493.60 are hereby made in this application'' which, when included in the application, will constitute a certification that the applicant is in compliance with all of the requirements set forth in § 1493.60. The applicant will be required to provide further explanation or documentation if not in compliance with these requirements or if the application does not include this statement.

(b) *Qualification notification.* CCC will notify applicants that have submitted information required by this section whether they have qualified to participate in the program or whether further information is required by CCC. Any applicant failing to qualify will be given an opportunity to provide additional information for consideration by the Director.

(c) *Previous qualification.* Any U.S. Financial Institution not participating in the GSM–102 program for two consecutive U.S. Government fiscal years must resubmit a qualification application containing the information specified in paragraph (a) of this section to CCC to participate in the GSM–102 program. If at any time the information required by paragraph (a) of this section changes, the U.S. Financial Institution must promptly contact CCC to update this information and certify that the remainder of the information previously provided pursuant to paragraph (a) has not changed.

(d) *Ineligibility for program participation.* A U.S. Financial Institution may be deemed ineligible to participate in the GSM–102 Program if such applicant cannot provide all of the information and certifications required by paragraph (a) of this section.

§ 1493.50 Information required for Foreign Financial Institution participation.

Foreign Financial Institutions must apply and be approved by CCC to be eligible to participate in the GSM–102 Program.

(a) *Qualification requirements.* To qualify for participation in the GSM–102 program, a Foreign Financial Institution must submit the following information to CCC in the manner specified on the USDA Web site:

(1) Legal name and address of the applicant;

(2) Year end, audited financial statements in accordance with the accounting standards established by the applicant's regulators, in English, for the applicant's three most recent fiscal years. If the applicant is not subject to a banking or other financial regulatory authority, year-end, audited financial statements in accordance with prevailing accounting standards, in English, for the applicant's three most recent fiscal years;

(3) Breakdown of applicant's ownership as follows:

(i) Ten largest individual shareholders and ownership percentages;

(ii) Percentage of government ownership, if any; and

(iii) Identity of the legal entity or person with ultimate control or decision making authority, if other than the majority shareholder.

(4) Organizational structure (independent, or a subsidiary, Affiliate, or branch of another legal entity);

(5) Name of foreign government agency that regulates the applicant; and

(6) A statement that: ''All certifications set forth in 7 CFR 1493.60 are hereby made in this application'' which, when included in the application, will constitute a certification that the applicant is in compliance with all of the requirements set forth in § 1493.60. The applicant will be required to provide further explanation or documentation if not in compliance with these requirements or if the application does not include this statement.

(b) *Qualification notification.* CCC will notify applicants that have submitted information required by this section whether they have qualified to participate in the program or whether further information is required by CCC. Any applicant failing to qualify will be given an opportunity to provide additional information for consideration by the Director.

(c) *Participation limit.* If, after review of the information submitted and other publicly available information, CCC determines that the Foreign Financial Institution is eligible for participation, CCC will establish a dollar participation limit for the institution. This limit will be the maximum amount of exposure CCC agrees to undertake with respect to this Foreign Financial Institution at any point in time. CCC may change or cancel this dollar participation limit at any time based on any information submitted or any publicly available information.

(d) *Previous qualification and submission of annual financial statements.* Each qualified Foreign Financial Institution shall submit annually to CCC the certifications in § 1493.60 and its audited fiscal year-end financial statements in accordance with the accounting standards established by the applicant's regulators, in English, so that CCC may determine the continued ability of the Foreign Financial Institution to adequately service CCC guaranteed debt. If the Foreign Financial Institution is not subject to a banking or other financial regulatory authority, it should submit year-end, audited financial statements in accordance with prevailing accounting standards, in English, for the applicant's most recent fiscal year. Failure to submit this

information annually may cause CCC to decrease or cancel the Foreign Financial Institution's dollar participation limit. Any Foreign Financial Institution not participating in the GSM–102 program for two consecutive U.S. Government fiscal years may have its dollar participation limit cancelled. If this participation limit is cancelled, the Foreign Financial Institution must resubmit the information and certifications requested in paragraph (a) of this section to CCC when reapplying for participation. Additionally, if at any time the information required by paragraph (a) of this section changes, the Foreign Financial Institution must promptly contact CCC to update this information and certify that the remainder of the information previously provided under paragraph (a) has not changed.

(e) *Ineligibility for program participation.* A Foreign Financial Institution may be deemed ineligible to participate in the GSM–102 program if:

(1) Such applicant cannot provide all of the information and certifications required in paragraph (a) of this section; or

(2) Based upon information submitted by the applicant or other publicly available sources, CCC determines that the applicant cannot adequately service the debt associated with the Payment Guarantees issued by CCC.

§ 1493.60 Certifications required for program participation.

(a) When making the statement required by §§ 1493.30(a)(7), 1493.40(a)(9), or 1493.50(a)(6), each Exporter, U.S. Financial Institution and Foreign Financial Institution applicant for program participation is certifying that, to the best of its knowledge and belief:

(1) The applicant and any of its principals (as defined in 2 CFR 180.995) or affiliates (as defined in 2 CFR 180.905) are not presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from covered transactions by any U.S. Federal department or agency;

(2) The applicant and any of its principals (as defined in 2 CFR 180.995) or affiliates (as defined in 2 CFR 180.905) have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) The applicant and any of its principals (as defined in 2 CFR 180.995) or affiliates (as defined in 2 CFR 180.905) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this section;

(4) The applicant and any of its principals (as defined in 2 CFR 180.995) or affiliates (as defined in 2 CFR 180.905) have not within a three-year period preceding this application had one or more public transactions (Federal, State or local) terminated for cause or default;

(5) The applicant does not have any outstanding nontax debt to the United States that is in delinquent status as provided in 31 CFR 285.13;

(6) The applicant is not controlled by a person owing an outstanding nontax debt to the United States that is in delinquent status as provided in 31 CFR 285.13 (e.g., a corporation is not controlled by an officer, director, or shareholder who owes a debt); and

(7) The applicant does not control a person owing an outstanding nontax debt to the United States that is in delinquent status as provided in 31 CFR 285.13 (e.g., a corporation does not control a wholly-owned or partially-owned subsidiary which owes a debt).

(b) *Additional certifications for U.S. and Foreign Financial Institution applicants.* When making the statement required by § 1493.40(a)(9) or § 1493.50(a)(6), each U.S. and Foreign Financial Institution applicant for program participation is certifying that, to the best of its knowledge and belief:

(1) The applicant and its Principals are in compliance with all requirements, restrictions and guidelines as established by the applicant's regulators; and

(2) All U.S. operations of the applicant and its U.S. Principals are in compliance with U.S. anti-money laundering and terrorist financing statutes including, but not limited to, the USA Patriot Act of 2001, and the Foreign Corrupt Practices Act of 1977.

§ 1493.70 Application for Payment Guarantee.

(a) A Firm Export Sales Contract for an Eligible Export Sale must exist before an Exporter may submit an application for a Payment Guarantee. Upon request by CCC, the Exporter must provide evidence of a Firm Export Sales Contract. An application for a Payment Guarantee must be submitted in writing to CCC in the manner specified on the USDA Web site. An application must identify the name and address of the Exporter and include the following information:

(1) Name of the destination country or region. If the destination is a region, indicate the country or countries within the region to which the U.S. Agricultural Commodity will be exported.

(2) Name and address of the Importer. If the Importer is not physically located in the country or region of destination, it must have an Importer's Representative in the country or region of destination. If applicable, provide the name and address of the Importer's Representative.

(3) A statement that the U.S. Agricultural Commodity will be shipped to the destination country or region.

(4) Name and address of the party on whose request the Letter of Credit is issued, if other than the Importer.

(5) Name and address of the Intervening Purchaser, if any.

(6) Date of Sale.

(7) Exporter's sale number.

(8) Delivery period as agreed between the Exporter and the Importer.

(9) A full description of the U.S. Agricultural Commodity (including packaging, if any). The description must include the applicable six-digit Harmonized System commodity classification code. The commodity grade and quality specified in the Exporter's application for the Payment Guarantee must correspond with the commodity grade and quality specified in the Firm Export Sales Contract and the Foreign Financial Institution Letter of Credit.

(10) Mean quantity, contract loading tolerance and, if necessary, a request for CCC to reserve coverage up to the maximum quantity permitted.

(11) Unit sales price of the U.S. Agricultural Commodity, or a mechanism to establish the price, as agreed between the Exporter and the Importer. If the commodity was sold on the basis of CFR or CIF, the actual (if known at the time of application) or estimated value of freight and, in the case of sales made on a CIF basis, the actual (if known at the time of application) or estimated value of marine and war risk insurance, must be specified.

(12) Description and value of Discounts and Allowances, if any.

(13) Port Value (includes upward loading tolerance, if any).

(14) Guaranteed Value.

(15) Guarantee fee, either as announced on the Web site per § 1493.110(a)(1), or the competitive fee bid per § 1493.110(a)(2), depending on the type of fee charged by CCC for the country or region.

(16) Name and location of the Foreign Financial Institution issuing the Letter of Credit and, upon request by CCC, written evidence that the Foreign Financial Institution has agreed to issue the Letter of Credit.

(17) The term length for the credit being extended and the intervals between principal payments for each shipment to be made under the export sale.

(18) The Exporter's statement, ''All certifications set forth in 7 CFR 1493.80 are hereby being made by the Exporter in this application.'' which, when included in the application by the Exporter, will constitute a certification that it is in compliance with all the requirements set forth in § 1493.80.

(b) An application for a Payment Guarantee may be approved as submitted, approved with modifications agreed to by the Exporter, or rejected by the Director. In the event that the application is approved, the Director will cause a Payment Guarantee to be issued in favor of the Exporter. Such Payment Guarantee will become effective at the time specified in § 1493.100(b). If, based upon a price review, the unit sales price of the commodity does not fall within the prevailing commercial market level ranges, as determined by CCC, the application will not be approved.

§ 1493.80 Certification requirements for obtaining Payment Guarantee.

By providing the statement in § 1493.70(a)(18), the Exporter is certifying that the information provided in the application is true and correct and, further, that all requirements set forth in this section have been met. The Exporter will be required to provide further explanation or documentation with regard to applications that do not include this statement. If the Exporter makes false certifications with respect to a Payment Guarantee, CCC will have the right, in addition to any other rights provided under this subpart or otherwise as a matter of law, to revoke guarantee coverage for any commodities not yet exported and/or to commence legal action and/or administrative proceedings against the Exporter. The Exporter, in submitting an application for a Payment Guarantee and providing the statement set forth in § 1493.70(a)(18), certifies that:

(a) The commodity or product covered by the Payment Guarantee is a U.S. Agricultural Commodity;

(b) There have not been any corrupt payments or extra sales services or other items extraneous to the transaction provided, financed, or guaranteed in connection with the transaction, and the transaction complies with applicable United States law, including the Foreign Corrupt Practices Act of 1977 and other anti-bribery measures;

(c) If the U.S. Agricultural Commodity is vegetable oil or a vegetable oil product, that none of the agricultural commodity or product has been or will be used as a basis for a claim of a refund, as drawback, pursuant to section 313 of the Tariff Act of 1930, 19 U.S.C. 1313, of any duty, tax or fee imposed under Federal law on an imported commodity or product;

(d) At the time of submission of the application for Payment Guarantee, neither the Importer nor the Intervening Purchaser, if applicable, is present as an excluded party on the SAM list;

(e) The Exporter is fully in compliance with the requirements of § 1493.130(b) for all existing Payment Guarantees issued to the Exporter or has requested and been granted an extension per § 1493.130(b)(3); and

(f) The information provided pursuant to § 1493.30 has not changed and the Exporter still meets all of the qualification requirements of § 1493.30.

§ 1493.90 Special requirements of the Foreign Financial Institution Letter of Credit and the Terms and Conditions Document, if applicable.

(a) *Permitted mechanisms to document special requirements.* (1) A Foreign Financial Institution Letter of Credit is required in connection with the export sale to which CCC's Payment Guarantee pertains.

(i) The Letter of Credit must stipulate presentation of at least one original clean on board bill of lading as a required document, unless:

(A) The Exporter, or a related company previously reported to CCC by the Exporter pursuant to § 1493.30(a)(5), is named as the shipper on the clean on board bill of lading. If the Exporter or a related company is named the shipper on the bill of lading, the Letter of Credit may stipulate a copy or photocopy of an original clean on board bill of lading; or

(B) The Letter of Credit stipulates presentation of electronic documents per paragraph (a)(1)(ii) of this section.

(ii) If the Letter of Credit will allow for presentation of electronic documents, the Letter of Credit must so stipulate.

(2) The use of a Terms and Conditions Document is optional. The Terms and Conditions Document, if any, must be specifically identified and referred to in the Foreign Financial Institution Letter of Credit.

(3) The special requirements in paragraph (b) of this section must be documented in one of the two following ways:

(i) The special requirements may be set forth in the Foreign Financial Institution Letter of Credit as a special instruction from the Foreign Financial Institution; or

(ii) The special requirements may be set forth in a separate Terms and Conditions Document.

(b) *Special requirements.* The following provisions are required and must be documented in accordance with paragraph (a) of this section:

(1) The terms of the Repayment Obligation, including a specific promise by the Foreign Financial Institution issuing the Letter of Credit to pay the Repayment Obligation;

(2) The following language: ''In the event that the Commodity Credit Corporation (''CCC'') is subrogated to the position of the obligee hereunder, this instrument shall be governed by and construed in accordance with the laws of the State of New York, excluding its conflict of laws principles. In such case, any legal action or proceeding arising under this instrument will be brought exclusively in the U.S. District Court for the Southern District of New York or the U.S. District Court for the District of Columbia, as determined by CCC, and such parties hereby irrevocably consent to the personal jurisdiction and venue therein.'';

(3) A provision permitting the Holder of the Payment Guarantee to declare all or any part of the Repayment Obligation, including accrued interest, immediately due and payable, in the event a payment default occurs under the Letter of Credit or, if applicable, the Terms and Conditions Document; and

(4) Post Default Interest terms.

§ 1493.100 Terms and requirements of the Payment Guarantee.

(a) *CCC's obligation.* The Payment Guarantee will provide that CCC agrees to pay the Holder of the Payment Guarantee an amount not to exceed the Guaranteed Value, plus Eligible Interest, in the event that the Foreign Financial Institution fails to pay under the Foreign Financial Institution Letter of Credit and, if applicable, the Terms and Conditions Document. Payment by CCC will be in U.S. dollars.

(b) *Period of guarantee coverage.* (1) The Holder of the Payment Guarantee may, with respect to a series of

shipments made within a 30 calendar day period, elect to have the Payment Guarantee coverage being on the Weighted Average Export Date for such shipments. The first allowable 30 calendar day period for bundling of shipments to compute the Weighted Average Export Date for such shipments begins on the first Date of Export for transactions covered by the Payment Guarantee. Shipments within each subsequent 30 calendar day period may be bundled with other shipments made within the same 30 calendar period to determine the Weighted Average Export Date for such shipments.

(2)(i) The period of coverage under the Payment Guarantee begins on the earlier of the following dates and will continue during the credit term specified on the Payment Guarantee or any amendments thereto:

(A) The Date(s) of Export or the Weighted Average Export Date(s), as selected by the Holder of the Payment Guarantee consistent with paragraph (b)(1) of this section; or

(B) The date when Ordinary Interest begins to accrue, or the weighted average date when interest begins to accrue.

(ii) However, the Payment Guarantee becomes effective on the Date(s) of Export of the U.S. Agricultural Commodities specified in the Exporter's application for the Payment Guarantee.

(c) *Terms of the CCC Payment Guarantee.* The terms of CCC's coverage will be set forth in the Payment Guarantee, as approved by CCC, and will include the provisions of this subpart, which may be supplemented by any Program Announcements and notices to participants in effect at the time the Payment Guarantee is approved by CCC.

(d) *Final date to export.* The final date to export shown on the Payment Guarantee will be one month, as determined by CCC, after the contractual deadline for shipping.

(e) *Reserve coverage for loading tolerances.* The Exporter may apply for a Payment Guarantee and, if coverage is available, pay the guarantee fee, based on the mean of the lower and upper loading tolerances of the Firm Export Sales Contract; however, the Exporter may also request that CCC reserve additional guarantee coverage to accommodate up to the amount of the upward loading tolerance specified in the Firm Export Sales Contract. The amount of coverage that can be reserved to accommodate the upward loading tolerance is limited to ten (10) percent of the Port Value of the sale. If such additional guarantee coverage is available at the time of application and the Director determines to make such reservation, CCC will so indicate to the Exporter. In the event that the Exporter ships a quantity greater than the amount on which the guarantee fee was paid (i.e., the mean of the upper and lower loading tolerances), it may obtain the additional coverage from CCC, up to the amount of the upward loading tolerance, by filing for an application for amendment to the Payment Guarantee, and by paying the additional amount of fee applicable. If such application for an amendment to the Payment Guarantee is not filed with CCC by the Exporter and the additional fee not received by CCC within 30 calendar days after the date of the last export against the Payment Guarantee, CCC may cancel the reserve coverage originally set aside for the Exporter.

(f) *Certain export sales are ineligible for GSM–102 Payment Guarantees.* (1) An export sale (or any portion thereof) is ineligible for Payment Guarantee coverage if at any time CCC determines that:

(1) The commodity is not a U.S. Agricultural Commodity;

(2) The export sale includes corrupt payments or extra sales or services or other items extraneous to the transactions provided, financed, or guaranteed in connection with the export sale;

(3) The export sale does not comply with applicable U.S. law, including the Foreign Corrupt Practices Act of 1977 and other anti-bribery measures;

(4) If the U.S. Agricultural Commodity is vegetable oil or a vegetable oil product, any of the agricultural commodity or product has been or will be used as a basis for a claim of a refund, as drawback, pursuant to section 313 of the Tariff Act of 1930, 19 U.S.C. 1313, of any duty, tax or fee imposed under Federal law on an imported commodity or product;

(5) Either the Importer or the Intervening Purchaser, if any, is excluded or disqualified from participation in U.S. government programs; or

(6) The sale is not an Eligible Export Sale.

(g) *Certain exports of U.S. Agricultural Commodities are ineligible for Payment Guarantee coverage.* The following exports are ineligible for coverage under a GSM–102 Payment Guarantee except where it is determined by the Director to be in the best interest of CCC to provide guarantee coverage on such exports:

(1) Exports of U.S. Agricultural Commodities with a Date of Export prior to the date of receipt by CCC of the Exporter's written application for a Payment Guarantee;

(2) Exports of U.S. Agricultural Commodities with a Date of Export later than the final date to export shown on the Payment Guarantee or any amendments thereof;

(3) Exports of U.S. Agricultural Commodities where the date of issuance of a Foreign Financial Institution Letter of Credit is later than 30 calendar days after:

(i) The Date of Export, or

(ii) The Weighted Average Export Date, if the Holder of the Payment Guarantee has elected to have the Payment Guarantee coverage begin on the Weighted Average Export Date; or

(4) Exports of U.S. Agricultural Commodities that have been guaranteed by CCC under another Payment Guarantee. If CCC determines that an export of U.S. Agricultural Commodities has been guaranteed under multiple Payment Guarantees (or coverage has been requested under multiple Payment Guarantees), CCC will determine which Payment Guarantee (or application for Payment Guarantee), if any, corresponds to an Eligible Export Sale.

(h) *Additional requirements.* The Payment Guarantee may contain such additional terms, conditions, and limitations as deemed necessary or desirable by the Director. Such additional terms, conditions or qualifications as stated in the Payment Guarantee are binding on the Exporter and the Assignee.

(i) *Amendments.* A request for an amendment of a Payment Guarantee may be submitted only by the Exporter, with the written concurrence of the Assignee, if any. The Director will consider such a request only if the amendment sought is consistent with this subpart and any applicable Program Announcements and sufficient budget authority exists. Any amendment to the Payment Guarantee, particularly those that result in an increase in CCC's liability under the Payment Guarantee, may result in an increase in the guarantee fee. CCC reserves the right to request additional information from the Exporter to justify the request and to charge a fee for amendments. Such fees will be announced and available on the USDA Web site. Any request to amend the Foreign Financial Institution on the Payment Guarantee will require that the Holder of the Payment Guarantee resubmit to CCC the certifications in § 1493.120(c)(1)(i) or § 1493.140(d).

§ 1493.110 Guarantee fees.

(a) *Guarantee fee rates.* Payment Guarantee fee rates charged may be one of the following two types:

(1) Those that are announced on the USDA Web site and are based upon the length of the payment terms provided for in the Firm Export Sales Contract, the degree of risk that CCC assumes, as determined by CCC, and any other factors which CCC determines appropriate for consideration.

(2) Those where Exporters are invited to submit a competitive bid for coverage. If CCC determines to offer coverage on a competitive fee bid basis, instructions for bidding, and minimum fee rates, if applicable, will be made available on the USDA Web site.

(b) *Calculation of fee.* The guarantee fee will be computed by multiplying the Guaranteed Value by the guarantee fee rate.

(c) *Payment of fee.* The Exporter shall remit, with his application, the full amount of the guarantee fee. Applications will not be accepted until the guarantee fee has been received by CCC. The Exporter's wire transfer or check for the guarantee fee shall be made payable to CCC and be submitted in the manner specified on the USDA Web site.

(d) *Refunds of fee.* Guarantee fees paid in connection with applications that are accepted by CCC will ordinarily not be refundable. Once CCC notifies an Exporter of acceptance of an application, the fee for that application will not be refunded unless the Director determines that such refund will be in the best interest of CCC, even if the Exporter withdraws the application prior to CCC's issuance of the Payment Guarantee. If CCC does not accept an application for a Payment Guarantee or accepts only part of the guarantee coverage requested, a full or pro rata refund of the fee will be made.

§ 1493.120 Assignment of the Payment Guarantee.

(a) *Requirements for assignment.* The Exporter may assign the Payment Guarantee only to a U.S. Financial Institution approved for participation by CCC. The assignment must cover all amounts payable under the Payment Guarantee not already paid, may not be made to more than one party, and may not, unless approved in advance by CCC, be:

(1) Made to one party acting for two or more parties, or

(2) Subject to further assignment.

(b) *CCC to receive notice of assignment of payment guarantee.* A notice of assignment signed by the parties thereto must be filed with CCC by the Assignee in the manner specified on the USDA Web site. The name and address of the Assignee must be included on the written notice of assignment. The notice of assignment should be received by CCC within 30 calendar days of the date of assignment.

(c) *Required certifications.* (1) The U.S. Financial Institution must include the following certification on the notice of assignment: ''I certify that:

(i) [Name of Assignee] has verified that the Foreign Financial Institution, at the time of submission of the notice of assignment, is not present as an excluded party on the SAM list; and

(ii) To the best of my knowledge and belief, the information provided pursuant to § 1493.40 has not changed and [name of Assignee] still meets all of the qualification requirements of § 1493.40.''

(2) If the Assignee makes a false certification with respect to a Payment Guarantee, CCC may, in its sole discretion, in addition to any other action available as a matter of law, rescind and cancel the Payment Guarantee, reject the assignment of the Payment Guarantee, and/or commence legal action and/or administrative proceedings against the Assignee.

(d) *Notice of eligibility to receive assignment.* In cases where a U.S. Financial Institution is determined to be ineligible to receive an assignment, in accordance with paragraph (e) of this section, CCC will provide notice thereof to the U.S. Financial Institution and to the Exporter issued the Payment Guarantee.

(e) *Ineligibility of U.S. Financial Institutions to receive an assignment and proceeds.* A U.S. Financial Institution will be ineligible to receive an assignment of a Payment Guarantee or the proceeds payable under a Payment Guarantee if such U.S. Financial Institution:

(1) At the time of assignment of a Payment Guarantee, is not in compliance with all requirements of 1493.40(a); or

(2) Is the branch, agency, or subsidiary of the Foreign Financial Institution issuing the Letter of Credit; or

(3) Is owned or controlled by an entity that owns or controls the Foreign Financial Institution issuing the Letter of Credit; or

(4) Is the U.S. parent of the Foreign Financial Institution issuing the Foreign Financial Institution Letter of Credit; or

(5) Is owned or controlled by the government of a foreign country and the Payment Guarantee has been issued in connection with export sales of U.S. Agricultural Commodities to Importers located in such foreign country.

(f) *Repurchase agreements.* (1) The Holder of the Payment Guarantee may enter into a Repurchase Agreement, to which the following requirements apply:

(i) Any repurchase under a Repurchase Agreement by the Holder of the Payment Guarantee must be for the entirety of the outstanding balance under the associated Repayment Obligation;

(ii) In the event of a default with respect to the Repayment Obligation subject to a Repurchase Agreement, the Holder of the Payment Guarantee must immediately effect such repurchase; and

(iii) The Holder of the Payment Guarantee must file all documentation required by §§ 1493.160 and 1493.170 in case of a default by the Foreign Financial Institution under the Payment Guarantee.

(2) The Holder of the Payment Guarantee shall, within five Business Days of execution of a transaction under the Repurchase Agreement, notify CCC of the transaction in writing in the manner specified on the USDA Web site. Such notification must include the following information:

(i) Name and address of the other party to the Repurchase Agreement;

(ii) A statement indicating whether the transaction executed under the Repurchase Agreement is for a fixed term or if it is terminable upon demand by either party. If fixed, provide the purchase date and the agreed upon date for repurchase. If terminable on demand, provide the purchase date only; and

(iii) The following written certification: ''[Name of Holder of the Payment Guarantee] has entered into a Repurchase Agreement that meets the provisions of 7 CFR 1493.120(f)(1) and, prior to entering into this agreement, verified that [name of other party to the Repurchase Agreement] is not present as an excluded party on the SAM list.''

(3) Failure of the Holder of the Payment Guarantee to comply with any of the provisions of paragraph (f) of this section may result in CCC annulling coverage on the Foreign Financial Institution Letter of Credit and Terms and Conditions Document, if applicable, covered by the Payment Guarantee.

§ 1493.130 Evidence of export.

(a) *Report of export.* The Exporter is required to provide CCC an evidence of export report for each shipment made under the Payment Guarantee. This report must include the following information:

(1) Payment Guarantee number;

(2) Evidence of export report number (e.g., Report 1, Report 2) reflecting the report's chronological order of submission under the particular Payment Guarantee;

(3) Date of Export;
(4) Destination country or region. If the sale was registered under a regional program, the Exporter must indicate the specific country or countries within the region to which the goods were shipped;
(5) Exporter's sale number;
(6) Exported Value;
(7) Quantity;
(8) A full description of the commodity exported, including the applicable six-digit Harmonized System commodity classification code;
(9) Unit sales price received for the commodity exported and the Incoterms 2010 basis (e.g., FOB, CFR, CIF). Where the unit sales price at export differs from the unit sales price indicated in the Exporter's application for a Payment Guarantee, the Exporter is also required to submit a statement explaining the reason for the difference;
(10) Description and value of Discounts and Allowances, if any;
(11) The Exporter's statement, ''All certifications set forth in 7 CFR 1493.140 are hereby being made by the Exporter in this Evidence of Export.'' which, when included in the evidence of export by the Exporter, will constitute a certification that it is in compliance with all the requirements set forth in § 1493.140; and
(12) In addition to all of the above information, the final evidence of export report for the Payment Guarantee must include the following:
(i) The statement ''Exports under the Payment Guarantee have been completed.''
(ii) A statement summarizing the total quantity and value of the commodity exported under the Payment Guarantee (i.e., the cumulative totals on all numbered evidence of export reports).
(b) *Time limit for submission of evidence of export.* (1) The Exporter must provide a written report to the CCC in the manner specified on the USDA Web site within 30 calendar days of the Date of Export.
(2) If at any time the Exporter determines that no shipments are to be made under a Payment Guarantee, the Exporter is required to notify CCC in writing no later than the final date to export specified on the Payment Guarantee by furnishing the Payment Guarantee number and stating ''no exports will be made under the Payment Guarantee.''
(3) Requests for an extension of the time limit for submitting an evidence of export report must be submitted in writing by the Exporter to the Director and must include an explanation of why the extension is needed. An extension of the time limit may be granted if such extension is requested prior to the expiration of the time limit for filing and is determined by the Director to be in the best interests of CCC.
(c) *Failure to comply with time limits for submission.* CCC will not accept any new applications for Payment Guarantees from an Exporter under § 1493.70 until the Exporter is fully in compliance with the requirements of paragraph (b) of this section for all existing Payment Guarantees issued to the Exporter or has requested and been granted an extension per paragraph (b)(3) of this section.
(d) *Export sales reporting.* Exporters have a mandatory reporting responsibility under Section 602 of the Agricultural Trade Act of 1978 (7 U.S.C. 5712), for exports of certain agricultural commodities and products thereof.

§ 1493.140 Certification requirements for the evidence of export.

By providing the statement contained in § 1493.130(a)(11), the Exporter is certifying that the information provided in the evidence of export report is true and correct and, further, that all requirements set forth in this section have been met. The Exporter will be required to provide further explanation or documentation with regard to reports that do not include this statement. If the Exporter makes false certifications with respect to a Payment Guarantee, CCC will have the right, in addition to any other rights provided under this subpart or otherwise as a matter of law, to annul guarantee coverage for any commodities not yet exported and/or to commence legal action and/or administrative proceedings against the Exporter. The Exporter, in submitting the evidence of export and providing the statement set forth in § 1493.130(a)(11), certifies that:
(a) The agricultural commodity or product exported under the Payment Guarantee is a U.S. Agricultural Commodity;
(b) The U.S. Agricultural Commodity was shipped directly to the country or region specified on the Payment Guarantee;
(c) There have not been any corrupt payments or extra sales services or other items extraneous to the transaction provided, financed, or guaranteed in connection with the export sale, and that the export sale complies with applicable United States law, including the Foreign Corrupt Practices Act of 1977 and other anti-bribery measures;
(d) If the Exporter has not assigned the Payment Guarantee to a U.S. Financial Institution, the Exporter has verified that the Foreign Financial Institution, at the time of submission of the evidence of export report, is not present as an excluded party on the SAM list;
(e) The transaction is an Eligible Export Sale; and
(f) The information provided pursuant to §§ 1493.30 and 1493.70 has not changed (except as agreed to and amended by CCC) and the Exporter still meets all of the qualification requirements of § 1493.30.

§ 1493.150 Proof of entry.

(a) *Diversion.* The diversion of U.S. Agricultural Commodities covered by a Payment Guarantee to a country or region other than that shown on the Payment Guarantee is prohibited, unless expressly authorized in writing by the Director.
(b) *Records of proof of entry.* (1) Exporters must obtain and maintain records of an official or customary commercial nature that demonstrate the arrival of the U.S. Agricultural Commodities exported in connection with the GSM–102 program in the country or region that was the intended country or region of destination of such commodities. At the Director's request, the Exporter must submit to CCC records demonstrating proof of entry. Records demonstrating proof of entry must be in English or be accompanied by a certified or other translation acceptable to CCC. Records acceptable to meet this requirement include an original certification of entry signed by a duly authorized customs or port official of the importing country, by an agent or representative of the vessel or shipline that delivered the U.S. Agricultural Commodity to the importing country, or by a private surveyor in the importing country, or other documentation deemed acceptable by the Director showing:
(i) That the U.S. Agricultural Commodity entered the importing country or region;
(ii) The identification of the export carrier;
(iii) The quantity of the U.S. Agricultural Commodity;
(iv) The kind, type, grade and/or class of the U.S. Agricultural Commodity; and
(v) The date(s) and place(s) of unloading of the U.S. Agricultural Commodity in the importing country or region.
(2) Where shipping documents (e.g., bills of lading) clearly demonstrate that the U.S. Agricultural Commodities were shipped to the destination country or region, proof of entry verification may be provided by the Importer.

§ 1493.160 Notice of default.

(a) *Notice of default.* If the Foreign Financial Institution issuing the Letter

of Credit fails to make payment pursuant to the terms of the Letter of Credit or the Terms and Conditions Document, the Holder of the Payment Guarantee must submit a notice of default to CCC as soon as possible, but not later than 5 Business Days after the date that payment was due from the Foreign Financial Institution (the due date). A notice of default must be submitted in writing to CCC in the manner specified on the USDA Web site and must include the following information:

(1) Payment Guarantee number;

(2) Name of the country or region as shown on the Payment Guarantee;

(3) Name of the defaulting Foreign Financial Institution;

(4) Payment due date;

(5) Total amount of the defaulted payment due, indicating separately the amounts for principal and Ordinary Interest, and including a copy of the repayment schedule with due dates, principal amounts and Ordinary Interest rates for each installment;

(6) Date of the Foreign Financial Institution's refusal to pay, if applicable;

(7) Reason for the Foreign Financial Institution's refusal to pay, if known, and copies of any correspondence with the Foreign Financial Institution regarding the default.

(b) *Failure to comply with time limit for submission.* If the Holder of the Payment Guarantee fails to notify CCC of a default within 5 Business Days, CCC may deny the claim for that default.

(c) *Impact of a default on other existing Payment Guarantees.* (1) In the event that a Foreign Financial Institution defaults under a Repayment Obligation, CCC may declare that such Foreign Financial Institution is no longer eligible to provide additional Letters of Credit under the GSM–102 Program. If CCC determines that such defaulting Foreign Financial Institution is no longer eligible for the GSM–102 Program, CCC shall provide written notice of such ineligibility to all Exporters and Assignees, if any, having Payment Guarantees covering transactions with respect to which the defaulting Foreign Financial Institution is expected to issue a Letter of Credit. Receipt of written notice from CCC that a defaulting Foreign Financial Institution is no longer eligible to provide additional Letters of Credit under the GSM–102 Program shall constitute withdrawal of coverage of that Foreign Financial Institution under all Payment Guarantees with respect to any Letter of Credit issued on or after the date of receipt of such written notice. CCC will not withdraw coverage of the defaulting Foreign Financial Institution under any Payment Guarantee with respect to any Letter of Credit issued before the date of receipt of such written notice.

(2) If CCC withdraws coverage of the defaulting Foreign Financial Institution, CCC will permit the Exporter (with concurrence of the Assignee, if any) to utilize another approved Foreign Financial Institution, and will consider other requested amendments to the Payment Guarantee, for the balance of the export sale covered by the Payment Guarantee. If no alternate Foreign Financial Institution is identified to issue the Letter of Credit within 30 calendar days, CCC will cancel the Payment Guarantee and refund the Exporter's guarantee fees corresponding to any unutilized portion of the Payment Guarantee.

§ 1493.170 Claims for default.

(a) *Filing a claim.* A claim by the Holder of the Payment Guarantee for a defaulted payment will not be paid if it is made later than 180 calendar days from the due date of the defaulted payment. A claim must be submitted in writing to CCC in the manner specified on the USDA Web site. The claim must include the following documents and information:

(1) An original cover document signed by the Holder of the Payment Guarantee and containing the following information:

(i) Payment Guarantee number;

(ii) A description of:

(A) Any payments from or on behalf of the defaulting party or otherwise related to the defaulted payment that were received by the Exporter or the Assignee prior to submission of the claim; and

(B) Any security, insurance, or collateral arrangements, whether or not any payment has been realized from such security, insurance, or collateral arrangement as of the time of claim, from or on behalf of the defaulting party or otherwise related to the defaulted payment.

(iii) The following certifications:

(A) A certification that the scheduled payment has not been received, listing separately scheduled principal and Ordinary Interest;

(B) A certification of the amount of the defaulted payment, indicating separately the amounts for defaulted principal and Ordinary Interest;

(C) A certification that all documents submitted under paragraph (a)(3) of this section are true and correct copies; and

(D) A certification that all documents conforming with the requirements for payment under the Foreign Financial Institution Letter of Credit have been submitted to the negotiating bank or directly to the Foreign Financial Institution under such Letter of Credit.

(2) An original instrument, in form and substance satisfactory to CCC, subrogating to CCC the respective rights of the Holder of the Payment Guarantee to the amount of payment in default under the applicable export sale. The instrument must reference the applicable Foreign Financial Institution Letter of Credit and, if applicable, the Terms and Conditions Document; and

(3) A copy of each of the following documents:

(i) The repayment schedule with due dates, principal amounts and Ordinary Interest rates for each installment (if the Ordinary Interest rates for future payments are unknown at the time the claim for default is submitted, provide estimates of such rates);

(ii)(A) The Foreign Financial Institution Letter of Credit securing the export sale; and

(B) If applicable, the Terms and Conditions Document;

(iii) Depending upon the method of shipment, the ocean carrier or intermodal bill(s) of lading signed by the shipping company with the onboard ocean carrier date for each shipment, the airway bill, or, if shipped by rail or truck, the bill of lading and the entry certificate or similar document signed by an official of the importing country. If the transaction utilizes electronic bill(s) of lading (e-BL), a print-out of the e-BL from electronic system with an electronic signature is acceptable;

(iv)(A) The Exporter's invoice showing, as applicable, the FAS, FCA, FOB, CFR or CIF values; or

(B) If there was an Intervening Purchaser, both the Exporter's invoice to the Intervening Purchaser and the Intervening Purchaser's invoice to the Importer;

(v) The evidence of export report(s) previously submitted by the Exporter to CCC in conformity with the requirements of § 1493.130(a); and

(vi) If the defaulted payment was part of a transaction executed under a Repurchase Agreement, written evidence that the repurchase occurred as required under § 1493.120(f)(1)(ii).

(b) *Additional documents.* If a claim is denied by CCC, the Holder of the Payment Guarantee may provide further documentation to CCC to establish that the claim is in good order.

(c) *Subsequent claims for defaults on installments.* If the initial claim is found in good order, the Holder of the Payment Guarantee need only provide all of the required claims documents with the initial claim relating to a

covered transaction. For subsequent claims relating to failure of the Foreign Financial Institution to make scheduled installments on the same export shipment, the Holder of the Payment Guarantee need only submit to CCC a notice of such failure containing the information stated in paragraph (a)(1)(i) and (ii) and (a)(1)(iii)(A) and (B) of this section; an instrument of subrogation as per paragraph (a)(2) of this section; and the date the original claim was filed with CCC.

(d) *Alternative satisfaction of Payment Guarantees.* CCC may establish procedures, terms and/or conditions for the satisfaction of CCC's obligations under a Payment Guarantee other than those provided for in this subpart if CCC determines that those alternative procedures, terms, and/or conditions are appropriate in rescheduling the debts arising out of any transaction covered by the Payment Guarantee and would not result in CCC paying more than the amount of CCC's obligation.

§ 1493.180 Payment for default.

(a) *Determination of CCC's liability.* Upon receipt in good order of the information and documents required under § 1493.170, CCC will determine whether or not a default has occurred for which CCC is liable under the applicable Payment Guarantee. Such determination shall include, but not be limited to, CCC's determination that all documentation conforms to the specific requirements contained in this subpart, and that all documents submitted for payment conform to the requirements of the Letter of Credit and, if applicable, the Terms and Conditions Document. If CCC determines that it is liable to the Holder of the Payment Guarantee, CCC will pay the Holder of the Payment Guarantee in accordance with paragraphs (b) and (c) of this section.

(b) *Amount of CCC's liability.* CCC's maximum liability for any claims submitted with respect to any Payment Guarantee, not including any CCC Late Interest payments due in accordance with paragraph (c) of this section, will be limited to the lesser of:

(1) The Guaranteed Value as stated in the Payment Guarantee, plus Eligible Interest, less any payments received or funds realized from insurance, security or collateral arrangements prior to claim by the Exporter or the Assignee from or on behalf of the defaulting party or otherwise related to the obligation in default (other than payments between CCC, the Exporter or the Assignee); or

(2) The guaranteed percentage (as indicated in the Payment Guarantee) of the Exported Value indicated in the evidence of export, plus Eligible Interest, less any payments received or funds realized from insurance, security or collateral arrangements prior to claim by the Exporter or the Assignee from or on behalf of the defaulting party or otherwise related to the obligation in default (other than payments between CCC, the Exporter or the Assignee).

(c) *CCC Late Interest.* If CCC does not pay a claim within 15 Business Days of receiving the claim in good order, CCC Late Interest will accrue in favor of the Holder of the Payment Guarantee beginning with the sixteenth Business Day after the day of receipt of a complete and valid claim found by CCC to be in good order and continuing until and including the date that payment is made by CCC. CCC Late Interest will be paid on the guaranteed amount, as determined by paragraphs (b)(1) and (2) of this section, and will be calculated at a rate equal to the average investment rate of the most recent Treasury 91-day bill auction as announced by the Department of Treasury as of the due date. If there has been no 91-day auction within 90 calendar days of the date CCC Late Interest begins to accrue, CCC will apply an alternative rate in a manner to be described on the USDA Web site.

(d) *Accelerated payments.* CCC will pay claims only on amounts not paid as scheduled. CCC will not pay claims for amounts due under an accelerated payment clause in the Firm Export Sales Contract, the Foreign Financial Institution Letter of Credit, the Terms and Conditions Document (if applicable), or any obligation owed by the Foreign Financial Institution to the Holder of the Payment Guarantee that is related to the Letter of Credit issued in favor of the Exporter, unless it is determined to be in the best interests of CCC. Notwithstanding the foregoing, CCC at its option may declare up to the entire amount of the unpaid balance, plus accrued Ordinary Interest, in default, require the Holder of the Payment Guarantee to invoke the acceleration provision in the Foreign Financial Institution Letter of Credit or, if applicable, in the Terms and Conditions Document, require submission of all claims documents specified in § 1493.170, and make payment to the Holder of the Payment Guarantee in addition to such other claimed amount as may be due from CCC.

(e) *Action against the Assignee.* If an Assignee submits a claim for default pursuant to Section 1493.170 and all documents submitted appear on their face to conform with the requirements of such section, CCC will not hold the Assignee responsible or take any action or raise any defense against the Assignee for any action, omission, or statement by the Exporter of which the Assignee has no knowledge.

§ 1493.190 Recovery of defaulted payments.

(a) *Notification.* Upon claim payment to the Holder of the Payment Guarantee, CCC will notify the Foreign Financial Institution of CCC's rights under the subrogation agreement to recover all monies in default.

(b) *Receipt of monies.* (1) In the event that monies related to the obligation in default are recovered by the Exporter or the Assignee from or on behalf of the defaulting party, the Importer, or any source whatsoever (excluding payments among CCC, the Exporter, and the Assignee), such monies shall be immediately paid to CCC. Any monies derived from insurance or through the liquidation of any security or collateral after the claim is filed with CCC shall be deemed recoveries that must be paid to CCC. If such monies are not received by CCC within 15 Business Days from the date of recovery by the Exporter or the Assignee, such party will owe to CCC interest from the date of recovery to the date of receipt by CCC. This interest will be calculated at a rate equal to the latest average investment rate of the most recent Treasury 91-day bill auction, as announced by the Department of Treasury, in effect on the date of recovery and will accrue from such date to the date of payment by the Exporter or the Assignee to CCC. Such interest will be charged only on CCC's share of the recovery. If there has been no 91-day auction within 90 calendar days of the date interest begins to accrue, CCC will apply an alternative rate in a manner to be described on the USDA Web site.

(2) If CCC recovers monies that should be applied to a Payment Guarantee for which a claim has been paid by CCC, CCC will pay the Holder of the Payment Guarantee its pro rata share, if any, provided that the required information necessary for determining pro rata distribution has been furnished. If a required payment is not made by CCC within 15 Business Days from the date of recovery or 15 business days from receiving the required information for determining pro rata distribution, whichever is later, CCC will pay interest calculated at a rate equal to the latest average investment rate of the most recent Treasury 91-day bill auction, as announced by the Department of Treasury, in effect on the date of recovery and interest will accrue from such date to the date of payment by CCC. The interest will apply only to the

portion of the recovery payable to the Holder of the Payment Guarantee.

(c) *Allocation of recoveries.* Recoveries received by CCC from any source whatsoever that are related to the obligation in default will be allocated by CCC to the Holder of the Payment Guarantee and to CCC on a pro rata basis determined by their respective interests in such recoveries. The respective interest of each party will be determined on a pro rata basis, based on the combined amount of principal and interest in default on the date the claim is paid by CCC. Once CCC has paid a particular claim under a Payment Guarantee, CCC pro-rates any collections it receives and shares these collections proportionately with the Holder of the Payment Guarantee until both CCC and the Holder of the Payment Guarantee have been reimbursed in full.

(d) *Liabilities to CCC.* Notwithstanding any other terms of the Payment Guarantee, under the following circumstances the Exporter or the Assignee will be liable to CCC for any amounts paid by CCC under the Payment Guarantee:

(1) The Exporter will be liable to CCC when and if it is determined by CCC that the Exporter has engaged in fraud, or has been or is in material breach of any contractual obligation, certification or warranty made by the Exporter for the purpose of obtaining the Payment Guarantee or for fulfilling obligations under the GSM–102 program; and

(2) The Assignee will be liable to CCC when and if it is determined by CCC that the Assignee has engaged in fraud or otherwise violated program requirements.

(e) *Cooperation in recoveries.* Upon payment by CCC of a claim to the Holder of the Payment Guarantee, the Holder of the Payment Guarantee and the Exporter will cooperate with CCC to effect recoveries from the Foreign Financial Institution and/or the Importer. Cooperation may include, but is not limited to, submission of documents to the Foreign Financial Institution (or its representative) to establish a claim; participation in discussions with CCC regarding the appropriate course of action with respect to a default; actions related to accelerated payments as specified in § 1493.180(d); and other actions that do not increase the obligation of the Holder of the Payment Guarantee or the Exporter under the Payment Guarantee.

§ 1493.191 Additional obligations and requirements.

(a) *Maintenance of records, access to premises, and responding to CCC inquiries.* For a period of five years after the date of expiration of the coverage of a Payment Guarantee, the Exporter and the Assignee, if applicable, must maintain and make available all records and respond completely to all inquiries pertaining to sales and deliveries of and extension of credit for U.S. Agricultural Commodities exported in connection with a Payment Guarantee, including those records generated and maintained by agents, Intervening Purchasers, and related companies involved in special arrangements with the Exporter. The Secretary of Agriculture and the Comptroller General of the United States, through their authorized representatives, must be given full and complete access to the premises of the Exporter and the Assignee, as applicable, during regular business hours from the effective date of the Payment Guarantee until the expiration of such five-year period to inspect, examine, audit, and make copies of the Exporter's, Assignee's, agent's, Intervening Purchaser's or related company's books, records and accounts concerning transactions relating to the Payment Guarantee, including, but not limited to, financial records and accounts pertaining to sales, inventory, processing, and administrative and incidental costs, both normal and unforeseen. During such period, the Exporter and the Assignee may be required to make available to the Secretary of Agriculture or the Comptroller General of the United States, through their authorized representatives, records that pertain to transactions conducted outside the program, if, in the opinion of the Director, such records would pertain directly to the review of transactions undertaken by the Exporter in connection with the Payment Guarantee.

(b) *Responsibility of program participants.* It is the responsibility of all Exporters and U.S. and Foreign Financial Institutions to review, and fully acquaint themselves with, all regulations, Program Announcements, and notices to participants relating to the GSM–102 program, as applicable. All Exporters and U.S. and Foreign Financial Institutions participating in the GSM–102 program are hereby on notice that they will be bound by this subpart and any terms contained in the Payment Guarantee and in applicable Program Announcements.

(c) *Submission of documents by Principals.* All required submissions, including certifications, applications, reports, or requests (i.e., requests for amendments) by Exporters, Assignees, or Foreign Financial Institutions under this subpart must be signed by a Principal of the Exporter, Assignee, or Foreign Financial Institution or their authorized designee(s). In cases where the designee is acting on behalf of the Principal, the signature must be accompanied by: Wording indicating the delegation of authority or, in the alternative, by a certified copy of the delegation of authority; and the name and title of the authorized person or officer. Further, the Exporter, Assignee, or Foreign Financial Institution must ensure that all information and reports required under these regulations are timely submitted.

(d) *Misstatements or noncompliance by Exporter may lead to rescission of Payment Guarantee.* CCC may cancel a Payment Guarantee in the event that an Exporter makes a willful misstatement in the certifications in §§ 1493.80(b) and 1493.140(c) or if the Exporter fails to comply with the provisions of § 1493.150 or paragraph (a) of this section. However, notwithstanding the foregoing, CCC will not cancel its Payment Guarantee, if it determines, in its sole discretion, that an Assignee had no knowledge of the Exporter's misstatement or noncompliance at the time of assignment of the Payment Guarantee.

§ 1493.192 Dispute resolution and appeals.

(a) *Dispute resolution.* (1) The Director and the Exporter or the Assignee will attempt to resolve any disputes, including any adverse determinations made by CCC, arising under the GSM–102 program, this subpart, the applicable Program Announcements and notices to participants, or the Payment Guarantee.

(2) The Exporter or the Assignee may seek reconsideration of a determination made by the Director by submitting a letter requesting reconsideration to the Director within 30 calendar days of the date of the determination. For the purposes of this section, the date of a determination will be the date of the letter or other means of notification to the Exporter or the Assignee of the determination. The Exporter or the Assignee may include with the letter requesting reconsideration any additional information that it wishes the Director to consider in reviewing its request. The Director will respond to the request for reconsideration within 30 calendar days of the date on which the request or the final documentary evidence submitted by the Exporter or the Assignee is received by the Director, whichever is later, unless the Director extends the time permitted for response. If the Exporter or the Assignee fails to request reconsideration of a determination by the Director, then the

determination of the Director will be deemed final.

(3) If the Exporter or the Assignee requests reconsideration of a determination by the Director pursuant to paragraph (a)(2) of this section, and the Director upholds the original determination, then the Exporter or the Assignee may appeal the Director's final determination to the GSM in accordance with the procedures set forth in paragraph (b) of this section. If the Exporter or the Assignee fails to appeal the Director's final determination within 30 calendar days as provided in paragraph (b)(1) of this section, then the Director's decision becomes the final determination of CCC.

(b) *Appeal procedures.* (1) An Exporter or Assignee that has exhausted the procedures set forth in paragraph (a) of this section may appeal to the GSM for a determination of the Director. An appeal to the GSM must be made in writing and filed with the office of the GSM no later than 30 calendar days following the date of the final determination by the Director. If the Exporter or Assignee requests an administrative hearing in its appeal letter, it shall be entitled to a hearing before the GSM or the GSM's designee.

(2) If the Exporter or Assignee does not request an administrative hearing, the Exporter or Assignee must indicate in its appeal letter whether or not it will submit any additional written information or documentation for the GSM to consider in acting upon its appeal. This information or documentation must be submitted to the GSM within 30 calendar days of the date of the appeal letter to the GSM. The GSM will make a decision regarding the appeal based upon the information contained in the administrative record. The GSM will issue his or her written decision within 60 calendar days of the latter of the date on which the GSM receives the appeal or the date that final documentary evidence is submitted by the Exporter or Assignee to the GSM.

(3) If the Exporter or the Assignee has requested an administrative hearing, the GSM will set a date and time for the hearing that is mutually convenient for the GSM and the Exporter or Assignee. This date will ordinarily be within 60 calendar days of the date on which the GSM receives the request for a hearing. The hearing will be an informal procedure. The Exporter or Assignee and/or its counsel may present any relevant testimony or documentary evidence to the GSM. A transcript of the hearing will not ordinarily be prepared unless the Exporter or Assignee bears the costs involved in preparing the transcript, although the GSM may decide to have a transcript prepared at the expense of the Government. The GSM will make a decision regarding the appeal based upon the information contained in the administrative record. The GSM will issue his or her written decision within 60 calendar days of the latter of the date of the hearing or the date of receipt of the transcript, if one is to be prepared.

(4) The decision of the GSM will be the final determination of CCC. The Exporter or Assignee will be entitled to no further administrative appellate rights.

(c) *Failure to comply with determination.* If the Exporter or Assignee has violated the terms of this subpart or the Payment Guarantee by failing to comply with a determination made under this section, and the Exporter or Assignee has exhausted its rights under this section or has failed to exercise such rights, then CCC will have the right to take any measures available to CCC under applicable law.

(d) *Exporter's obligation to perform.* The Exporter will continue to have an obligation to perform pursuant to the provisions of these regulations and the terms of the Payment Guarantee pending the conclusion of all procedures under this section.

§ 1493.195 Miscellaneous provisions.

(a) *Officials not to benefit.* No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the Payment Guarantee or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the Payment Guarantee if made with a corporation for its general benefit.

(b) *OMB control number assigned pursuant to the Paperwork Reduction Act.* The information collection requirements contained in this part (7 CFR part 1493) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0551–0004.

Dated: June 4, 2014.

Philip C. Karsting,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

Editorial Note: This document was received for publication by the Office of the Federal Register on November 12, 2014.

[FR Doc. 2014–27129 Filed 11–17–14; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

[Docket No. 140127076–4935–03]

RIN 0605–AA33

Public Information, Freedom of Information Act and Privacy Act Regulations; Correction

AGENCY: Department of Commerce.

ACTION: Final rule; correction.

SUMMARY: The Department of Commerce (Department) is correcting a final rule, published on October 20, 2014, that revised the Department's regulations under the Freedom of Information Act (FOIA) and Privacy Act. This final rule corrects the cross-references in the section describing the requirements for making FOIA requests.

DATES: Effective November 19, 2014.

FOR FURTHER INFORMATION CONTACT: Mark R. Tallarico, Senior Counsel, (202) 482–8156, Office of the General Counsel, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: In FR Doc. 2014–24598 appearing on page 62553 in the **Federal Register** of Monday, October 20, 2014 (79 FR 62553), the following correction is made:

§ 4.4 [Corrected]

■ On page 62559, in the second column, in § 4.4(c), the second to last sentence is corrected to read as follows:

''Such a notice constitutes an adverse determination under § 4.7(d) for which components shall follow the procedures for a denial letter under § 4.7(e).''

Dated: November 13, 2014.

Catrina D. Purvis,

Chief Privacy Officer and Director of Open Government.

[FR Doc. 2014–27265 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 140113040–4919–02]

RIN 0648–BD90

Fisheries of the Exclusive Economic Zone off Alaska; Monitoring and Enforcement; At-Sea Scales Requirements

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to revise the at-sea scales program for catcher/processor vessels (C/Ps) and motherships that are required to weigh catch at sea. This action makes three major changes to current regulations. First, this action requires enhancements of daily scale testing for flow scales used to weigh catch at sea and requires electronic reporting of the daily flow scale test results. Second, this action requires that vessels required to use flow scales to weigh catch have electronics capable of logging and printing the frequency and magnitude of scale calibrations, as well as the time and date of each scale fault (or error) and scale startup. Third, this action requires that vessels use video to monitor the flow scale and the area around the flow scale. In addition, this action revises minor technical regulations related to equipment and operation regulations and removes certain regulations that are no longer applicable; and improves the accuracy of catch estimation by the C/Ps and motherships using at-sea scales and reduces the possibility of scale tampering. This action is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, the Fishery Management Plan for Groundfish of the Gulf of Alaska, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

DATES: Effective December 18, 2014.

ADDRESSES: Electronic copies of the proposed rule, the Categorical Exclusion and the Regulatory Impact Review (Analysis) prepared for this action may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* An electronic copy of the Guidelines for Economic Review of National Marine Fisheries Service Regulatory Actions may be obtained from *http://www.nmfs.noaa.gov/sfa/domes_fish/EconomicGuidelines.pdf.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; and by email to *OIRA_Submission@omb.eop.gov,* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jennifer Watson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the exclusive economic zone off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. The fishery management plans (FMPs) were prepared by the North Pacific Fishery Management Council and approved by the Secretary of Commerce under authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson-Stevens Act). The FMPs are implemented by regulations at 50 CFR parts 679 and 680.

Background

The use of at-sea scales can provide precise and accurate groundfish catch estimates. At-sea scales are now used to account for the vast majority of catch by C/Ps and motherships fishing off Alaska. The at-sea scales program was developed in the mid-1990s to provide catch accounting methods for vessels, specifically C/Ps, that were more precise and verifiable and less dependent on estimates generated by at-sea observers. Improved catch estimation was necessary because of the implementation of large-scale catch share programs. Catch share programs require NMFS to provide verifiable and precise estimates of quota harvest. Because catch share programs limit vessel operators to specific amounts of catch, vessel operators may have an incentive to underreport catch and then fish beyond specific catch limits. A method for independently verifying catch, such as a requirement to weigh catch on a scale, reduces the vessel operator's ability to underreport catch.

Because C/Ps and motherships do not deliver their catch onshore where land-based scales can be used, catch must be weighed at sea. The requirements for weighing catch at sea were first implemented in 1998, and subsequently expanded to nearly all C/Ps operating off Alaska and motherships operating in the Bering Sea pollock fishery. Since 1998, the at-sea scales program has grown significantly, from fewer than 20 to more than 60 participating vessels today.

Since the at-sea scales program was first implemented in 1998, there have been substantial improvements in scale technology, NMFS has developed greater expertise with at-sea scales, and vessels are able to communicate more quickly and easily with NMFS while at sea. In addition, when at-sea scales regulations were first implemented in 1998, none of the vessels that were required to use scales had onboard video systems. Now, most of the vessels subject to at-sea scales requirements are required to use video monitoring to monitor the flow of catch. Collectively, these advancements in technology and expertise provide opportunities for NMFS to improve scale accuracy, monitoring, and reporting.

Recently, enforcement concerns have been raised about compliance with at-sea scales regulations. These enforcement concerns indicate that catch estimates based on inaccurate scale weights could systematically underestimate harvests in fisheries using scale weights for catch accounting. Modifications to the at-sea scales program will reduce the potential for scale tampering, improve catch accounting accuracy, and bring regulations up to date with current technology.

Actions Implemented by Rule

The proposed rule for this action was published in the **Federal Register** on July 31, 2014 (79 FR 44372). The 30-day comment period on the proposed rule ended September 2, 2014. The regulatory provisions implemented by this action are summarized here. Additional information and a description of this action are provided in detail in the preamble to the proposed rule and are not repeated here.

This action affects the owners and operators of the following C/Ps and motherships that are required to weigh catch at sea:

- Trawl C/Ps permitted for pollock in the Bering Sea and Aleutian Islands (BSAI) under the American Fisheries Act (AFA);

• motherships permitted to receive deliveries of pollock in the BSAI under the AFA;
• trawl C/Ps permitted to fish for groundfish under Amendment 80 to the BSAI FMP;
• trawl C/Ps permitted to fish for rockfish in the Central Gulf of Alaska (GOA);
• longline C/Ps with a license limitation program license endorsed for C/P operations that fish for Pacific cod using hook-and-line gear in the Bering Sea (BS) or Aleutian Islands areas; and
• C/Ps that harvest catch in the BSAI under the Multispecies Community Development Quota (MS–CDQ) Program.

All C/Ps and motherships that harvest catch in the BSAI under the MS–CDQ Program are subject to the same requirements as all other vessels that are required to weigh groundfish catch at sea under this action. This action is consistent with section 305(i)(1)(B)(iv) of the Magnuson-Stevens Act, which requires that Community Development Quota (CDQ) fisheries ''shall be regulated by the Secretary [NMFS] in a manner no more restrictive than for other participants in the applicable sector.''

This action implements three major and several minor technical changes to at-sea scale regulations. First, this action changes daily scale test methods for flow scales used to weigh catch at sea and requires electronic reporting of daily flow scale test results. These changes will improve the accuracy of flow scale estimates, and allow NMFS to monitor and correct potential bias in scale estimates. Second, this action requires that flow scales used to weigh catch be capable of logging and printing the frequency and magnitude of scale calibrations relative to previous calibrations as well as the time and date of each scale fault (or error) and scale startup. These changes will allow NMFS to monitor adjustments to the flow scale made by vessel crew. This will help NMFS detect and address the accidental or intentional flow scale weight biasing. Third, this action requires that the area around the flow scale be monitored by video. This action will enhance NMFS' ability to detect vessel crew activities that could bias or adversely affect flow scale operations. Overall, this action will improve the accuracy of catch estimation by the C/Ps and motherships using at-sea scales and reduce the possibility of scale tampering.

This action also revises and consolidates the technical video requirements for fleets currently required to use video monitoring. Doing so will reduce confusion and prevent inconsistent compliance with the new video monitoring requirements. Finally, this action makes nine minor revisions to the equipment and operational regulations that, among other changes, remove regulations that are no longer applicable, clarify or add processes to request scale inspections or changes to equipment, and clarify other related requirements.

Comments and Responses

NMFS received five comment letters containing 15 distinct comments on the proposed rule. A summary of the relevant comments and NMFS' responses follows. Two technical corrections were made to the proposed rule as a result of these comments.

Comment 1: The commenter supports the use of at-sea scales and recognizes the need to update aging at-sea scales technology to ensure accurate data.

Response: NMFS acknowledges the comment. Since NMFS first implemented at-sea scales requirements for some C/Ps in 1998, the program has grown dramatically, scale technologies have evolved, and NMFS has developed greater expertise with at-sea scales. The suite of modifications to the at-sea scales program will reduce the potential for fraud, improve catch account accuracy, and bring regulations up to date with improvements in technology.

Comment 2: The commenter states that NMFS has cited a series of flow scale fraud cases as one of the reasons for changes to the at-sea scales requirements. Not all vessels using flow scales have been charged with fraud, so new regulations are unnecessary for many vessels.

Response: NMFS agrees that not all vessels using flow scales have been charged with scale fraud. However, NMFS disagrees that all vessels need to have been charged with fraud before at-sea scales regulations are improved and revised. NMFS has an obligation to ensure accurate and reliable catch accounting. Documented cases of fraud have shown the accuracy and reliability of catch accounting systems can be undermined and pointed out a need for revisions and improvements to the at-sea scales program. Improving at-sea scales regulations will help NMFS ensure accurate and reliable catch accounting among all vessels and reduce the potential for additional fraud.

While reducing the potential for fraud is one of the reasons for revising the at-sea scales program, NMFS cites other reasons for revising the at-sea scales program in the problem statement for this action (see the Introduction section of the Analysis). First, the at-sea scales program has expanded from 20 vessels when it was first developed to more than 60 vessels today. This increase in the number and variety of vessel types has created the need to be more efficient with time and resources; by automating many of the tasks needed to monitor the at-sea scales program NMFS may gain these efficiencies. This final rule establishes regulations to improve the automation of many of these tasks. Second, when the at-sea scales program was first developed, NMFS did not have a direct communication link with the vessels at sea, such as the e-logbook program that is now in place. The requirement in the final rule that vessels use the e-logbook will allow daily reporting of flow scale tests to better track the accuracy of the flow scales and improve catch accounting for these programs. Third, at the time the at-sea scales program was implemented, flow scales could store only minimal data. Today, flow scales are significantly easier to program and offer much greater storage capacity. These improvements will allow NMFS to determine how well the flow scales are performing while at sea, and improve the accuracy and reliability of flow scale measurements. Finally, video technology will allow NMFS to monitor activities around the flow scales at times when an observer may not be present or is completing other duties. This final rule establishes regulations to require video monitoring technology to ensure that all fish are sorted and weighed correctly, which enhances overall catch accounting.

Comment 3: The commenter states that NMFS anticipates most of these first-generation flow scale electronics will be replaced by the time of a final rule. However, not all affected vessels were planning to update their first-generation flow scale electronics. Therefore, the assumptions and cost projections in the analysis are likely underestimated and significant.

Response: NMFS disagrees. In Section B of the Analysis NMFS acknowledges that 19 vessels of the 68 vessels regulated by this action are using first generation flow scale electronics and that 10 of these vessels were not planning to acquire new flow scale electronics prior to implementation of these regulations. Section B of the Analysis describes the estimated costs for the vessels that were not planning to upgrade to new flow scale electronics. The cost estimates were based on the difference between the cost of replacement today and the present value of replacement at the time the vessel owners would have chosen. The analysis assumes that these flow scale electronics would otherwise have had

five years of additional life. The difference between the cost of replacement today and the present value of replacement in 5 years would be about $4,100 per unit, or about $41,000 for 10 units. The commenter does not present any new information that undermines NMFS' evaluation of the number of vessels or the estimated costs of compliance presented in the Analysis.

Comment 4: The commenter states that the proposed rule includes provisions that require vessel operators to invest in new software and cameras to capture additional data from the flow scale and more comprehensively monitor activity at and around the flow scale area. The proposed regulations will be onerous and expensive and are unnecessary for the vessels in the BSAI longline C/P fleet since the flow scales and cameras on these vessels are no more than a year old.

Response: NMFS disagrees. The requirements in this final rule are necessary to reduce the potential for fraud, improve catch accounting accuracy, and bring regulations up to date with improvements in technology for all C/Ps affected by this final rule. The regulations implemented in 2013 to allow the use of at-sea scales to monitor catch on BSAI longline C/Ps do not preclude NMFS from implementing additional regulatory changes to enhance the monitoring of flow scales used by these BSAI longline C/Ps (see final rule implementing revised regulations for longline C/Ps, 77 FR 59053, September 26, 2012).

Because at-sea scales have only recently been placed on longline C/Ps, the costs of compliance with this final rule are likely to be lower for longline C/Ps compared to other C/Ps. Section B of the Analysis explains that because the flow scales used on longline C/Ps are the most current generation of flow scale electronics, these vessels will not be required to purchase new flow scale electronics, but will be required to update their flow scale software. The cost of updating flow scale software is significantly lower than the costs of replacing flow scale electronics. The video monitoring requirements implemented by this action are very similar to the requirements that were implemented in 2013 to enhance the monitoring of at-sea scales used by longline C/Ps (see the final rule, 77 FR 59053, September 26, 2012). Only 7 vessels out of 30 active vessels in the longline C/P fleet will be impacted by the video monitoring requirements in this action. Section C of the Analysis explains that these 7 vessels may need to purchase an additional camera and connect them to the existing video system on the vessel.

Comment 5: The commenter states that the installation of new video monitoring systems and flow scale software, while not cost prohibitive, are nonetheless additional expenses for vessels since they will have to spend valuable time to install these systems and software while at the dock. This will leave less time to prepare the vessel for fishing.

Response: NMFS acknowledges this comment. Section C of the Analysis describes the costs and time to install the video monitoring systems and new software. The administrative costs to NMFS to approve and monitor installations also are explained in Section C. Based on past experience with video monitoring systems and flow scale software installations, NMFS anticipates most video and flow scale software installations will occur just prior to an annual inspection. NMFS usually conducts annual inspections when a vessel is already in a shipyard or after the fishery season when the vessel is already at the dock so that additional fishing time is not lost. Therefore, NMFS expects video and flow scale software installations will not reduce the fishing time available to most vessels. Flow scale software upgrades on vessels with the latest generation of flow scale electronics are not expected to take long and will likely be incorporated as part of the vessel's annual maintenance of the flow scale. However, installation of video monitoring systems by the vessel may take longer depending on the layout of a specific vessel. Personnel needed to install video monitoring systems are likely not the same personnel doing other work on board a vessel (e.g., preparing the factory) so video monitoring system installation and other vessel preparations may occur concurrently. The specific time for video installation will vary from vessel-to-vessel and depends on a range of design factors and availability of personnel to complete the installation.

Comment 6: The commenter states that the proposed regulations at § 679.28(b)(5)(v) allow vessels that have been inspected between March 1, 2014, and December 31, 2014, the ability to wait until the next annual at-sea scale inspection to meet the new fault and calibration log requirements. It is unclear if vessels that are inspected during December 2014, but that plan to begin fishing on January 20, 2015, will have to meet the new fault and calibration log requirements or if they will be able to wait until December 2015 to meet the new fault and calibration log requirements.

Response: The final rule requires fault and calibration log recording for all vessels in 2015 depending on when they received NMFS inspections during 2014. The proposed regulations at § 679.28(b)(5)(v) were intended to delay the requirements to comply with the flow scale fault and calibration log recording only for vessels for which NMFS conducted an at-sea scale inspection outside the winter scale inspection schedule (i.e., prior to December 2014). The timing of some fisheries requires NMFS to conduct some at-sea scale inspections during the spring and summer. Without a delay in the fault and calibration log requirements, these vessels would be required to have an additional at-sea scale inspection at the beginning of 2015. Requiring an additional inspection within 6 months of the last inspection will present significant logistical difficulties and increased costs for both NMFS and the vessel owners and at-sea scale providers. NMFS, however, did not intend to propose to delay implementation of the flow scale fault and calibration log requirements for vessels that NMFS normally inspects after December 1, 2014, and prior to fishing in 2015. The proposed regulations at § 679.28(b)(5)(v) mistakenly included December 31, 2014, as the last day vessels could receive an inspection and not need to comply with the flow scale fault and calibration log requirements, thus creating confusion about when vessels would need to comply with the requirements. The final rule clarifies the effective date is December 1, 2014, and not December 31, 2014. This modification clarifies that vessels that received at-sea scale inspections after March 1, 2014, and before December 1, 2014, will have to comply with the calibration log requirements and the fault log requirements at the time the flow scale is inspected by NMFS in 2015. Vessel operators that receive at-sea inspections in December 2014 will be required to comply with the new flow scale fault and calibration log requirements at the time of inspection.

Comment 7: The commenter proposes a phased-in approach to the software and flow scale electronics upgrades needed to comply with the flow scale fault and calibration log requirements for vessels using first generation flow scale electronics. The commenter states that the proposed rule already allows some flexibility for flow scales that have recently been certified. The commenter states that allowing all vessels this flexibility would amortize these

significant capital expenses over several years.

Response: NMFS disagrees. This rule requires the recording of scale faults and calibrations in 2015. Vessels will need to update flow scale software to allow the recording of scale faults and calibrations. Vessels with older versions of flow scale electronics will also need to upgrade those electronics to accommodate this new software. The final rule allows vessels that were inspected after March 1, 2014, and before December 1, 2014, to delay the implementation of the new fault log and calibration log requirements until their next annual inspection during 2015 (see regulations at § 679.28(b)(5)(v)) for the reasons described in the response to Comment 6. NMFS will not further delay the requirements of this final rule beyond 2015. As stated in the problem statement of the Analysis, NMFS raised enforcement concerns about compliance with at-sea scale regulations. Inaccurate scale weights could systematically underestimate harvest in fisheries using scale weights for catch accounting. These fault and calibration log requirements and the updated software to accommodate these requirements are needed by 2015 to improve catch accounting accuracy.

The regulatory requirement to incorporate the fault and calibration logs into flow scales is an integral piece in preventing scale fraud and systematic underestimation of harvest. The fault and calibration logs will provide useful information to NMFS' Office of Law Enforcement about improper flow scale use. Additionally, the first generation flow scale electronics are nearing the end of their service life. First generation flow scale electronics are no longer sold and finding replacing parts for these scales is becoming increasingly difficult. Recent annual inspections by NMFS and inseason reports from vessels have identified problems with the maintenance and functioning of these flow scales, such as taking multiple attempts to pass both the daily tests and the annual inspection. Given these problems, NMFS expects that some of these first generation flow scale electronics would not be able to pass their future annual inspections or daily scale tests even under existing regulatory requirements. The implementation of this final rule is necessary given the recent advances in scale and software technology and the limited serviceable life of existing first generation flow scale electronics.

Comment 8: The commenter states that the regulations at § 679.28(e)(7) will require NMFS' approval for changes to a vessel's video monitoring system. However, the proposed rule is not clear about what constitutes a change that will require approval. Vessel personnel need the ability to maintain video monitoring systems during fishing operations. Regular maintenance includes replacing cameras, computers, and wiring and monitors that are no longer serviceable, and other similar tasks. NMFS should clarify what activities will require NMFS' approval.

Response: NMFS acknowledges the comment. The regulation noted by the commenter is not substantively new. Prior to the implementation of this final rule, regulations at § 679.28(i)(1)(iii)(K), (j)(4), and (k)(7) also required that changes to the video monitoring systems be approved by either NMFS or the Regional Administrator. The final rule consolidates the approval process for changes in all video monitoring programs into one regulatory provision at § 679.28(e)(7). Changes to all the video systems must now be submitted for approval to the Regional Administrator. Changes to approved video monitoring systems that must be submitted for Regional Administrator approval are those that affect the functionality of the video system, such as changing the camera view. Any video equipment replacements that allow the system to continue to function in the same manner as when it was approved by the Regional Administrator will not need to be approved. For example, replacing broken or malfunctioning components of the video system with identical parts will not be considered to affect the functionality of the system. However, moving cameras to different locations or changing video software systems could change the functionality of the video system and will need approval.

Comment 9: The commenter states that NMFS claims that the proposed regulations will improve its ability to detect fault and calibration fraud through retention of the last 1,000 faults, 1,000 calibrations and scale startups. However, the rule does not describe how and when the additional data will be used. For example, how will NMFS use data in a timely fashion to determine if fraud is occurring in real time? The assumption that collecting more data provides deterrence to intentional fraud is false if NMFS is not able to detect fraud under the current reporting requirement (last 10 faults and startups).

Response: NMFS disagrees. The current software does not have the capability to record any faults or calibrations. The current regulations only require an audit trail that records when the weighing parameters inside the flow scale software are changed. As stated in the Analysis in Section B, both miscalibrating the flow scale and frequently running the flow scale in fault mode can indicate fraudulent activity. One miscalibration or fault error may occur accidently and be quickly resolved by the vessel. By requiring the vessel to provide a printout of this information at the end of the year with the last 1,000 calibrations and 1,000 faults, NMFS can look for patterns that might suggest improper flow scale calibrations or detect significant amounts of time when the flow scale is running in fault mode. Although NMFS anticipates reviewing these data on an annual basis, NMFS staff or enforcement personnel could request this printout at any time during the year.

Comment 10: The commenter states that the proposed regulations include new provisions on flow scale tests that will require daily submission of flow scale tests to NMFS and reporting of all daily scale tests, including failed tests (see regulations at § 679.5(f)(1)(ix)). These reporting requirements will create additional burdens on vessel crew and additional work and expenditures by NMFS to review and process the data collected under the new regulations. The value of the additional data does not warrant the expense for the industry and NMFS. If NMFS is interested in all flow scale tests performed on a vessel in a day, there already exists capabilities for the observer to monitor these actions as needed. It is also likely that video monitoring could capture the activities of interest.

Response: NMFS disagrees. Video monitoring systems are unable to determine the specific results of a flow scale test. The video monitoring systems are meant to ensure that the flow scale is functioning properly (e.g., that the flow scale is not running while in a fault (error) state), ensure that all fish are being weighed, detect when crew members are working on the flow scale, and ensure that daily flow scale tests are being conducted on the required schedule and with the appropriate test weights. Observers monitor the daily flow scale test, but they are not required to report those results to NMFS.

The vessel operator is responsible for ensuring that the flow scale is in working order and passes the daily flow scale test before weighing fish. The vessel operator is also responsible for reporting those results to NMFS and maintaining the at-sea scales so that the performance error is as close to zero as practicable. By requiring electronic submission of the daily flow scale tests, NMFS is reducing the reporting

requirements for the vessel overall. Although the vessel operator will be required to report all the flow scale tests performed (pass and fail), which could nominally increase the workload of the vessel operator, the vessel would be conducting these flow scale tests anyway until the flow scale passed the test, or the vessel repaired the flow scale. The information that is reported electronically is simplified compared to the paper form the vessel operators must currently complete. Under this final rule, only three blocks of information are required to be submitted to NMFS through the e-logbook: The weight of the test material on the platform scale, the weight of the material on the flow scale being tested, and the time of the test. Prior to this final rule, the vessel operator had to report 10 blocks of information through the paper form called Record of Daily Flow Scale Tests. These blocks were the vessel name, the date of test, the time of test, the weight of fish or sandbags on the platform scale, the weight of fish or sandbags on the flow scale, the calculated error of the flow scale, the calculated percent error of the flow scale, the sea conditions at the time of the test, the signature of the vessel operator, and the signature of the observer. The electronic reporting also allows data to be automatically submitted. For example, the percent error of a flow scale test is automatically calculated and entered into the report by the electronic reporting software. Also, because the reporting of the daily flow scale tests is part of the software that the majority of vessels already use to report catch and effort data daily to NMFS, no additional transmission requirements would be required for most vessel operators. Additionally, the vessel operator would only be required to sign the electronic logbook form, not both the logbook form and the daily scale test form. Finally, as the Analysis states in Section A.2, by receiving this information on a daily basis, NMFS can monitor the test results daily and identify flow scale issues immediately instead of requesting the test results at the end of the year, reviewing hundreds of paper forms, and entering the results by hand. Overall, daily reporting is likely to reduce workload and allow for errors in flow scale functions to be identified and corrected more quickly than under existing reporting requirements.

Comment 11: The commenter states that currently only two companies provide certified at-sea flow scales: Marel and Scanvaegt. However, currently Scanvaegt's flow scale will not meet the proposed requirements, eliminating competition among at-sea flow scale providers. Scanvaegt is working towards a solution that meets proposed requirements. However, NMFS should not adopt regulations that can only be met by a single vendor and should delay implementation until at-sea flow scales from additional vendors are approved.

Response: NMFS disagrees. The flow scale requirements in the final rule were developed independent of any specific scale company's available products, and any scale company could meet the requirements. Other entities, including commercial scale manufacturers other than the two noted by the commenter, could develop an at-sea flow scale that meets the requirements described in the regulations and NMFS could approve those at the time they became available. NMFS has no information to indicate that the company currently providing at-sea flow scales that meet these requirements will increase costs beyond the normal market prices that were estimated in the analysis. NMFS does not have any information to indicate when other scale manufacturers may choose to enter the market with an at-sea flow scale that meets the requirements. Flow scales that meet the requirements established in this final rule are currently available, and new manufacturers can choose to enter the market at any time. Delaying these regulations until additional scale manufacturers have entered the market is not necessary.

Comment 12: The commenter states that the proposed regulations at § 679.28(e)(1)(iv) state that ''color cameras must have at a minimum 470 TV (television) lines of resolution.'' There are many digital video cameras that no longer use TV lines within their specifications and have their resolution measured in pixels. Digital cameras with specific Megapixel (MP) ratings do not directly compare to TV line ratings. Some manufacturers produce video cameras that have high MP ratings but a low quality lens, which may contribute to distortion and blurriness of the image. In most cases, a digital camera will output to the equivalent of 470 TV lines so the regulations should provide an alternative standard in MP for digital cameras.

Response: NMFS disagrees. While some digital camera manufacturers may not use TV lines in their specifications, it remains the industry standard to determine video quality, and digital cameras can be tested and their resolution can be compared to a TV line standard. As the commenter mentions, a higher MP rating will not necessarily result in higher video quality. As the commenter also states, most current digital cameras are able to meet the 470 TV line standard. Because digital cameras can be tested against a TV line standard, it is not necessary to establish a new minimum MP standard in these regulations to ensure adequate video quality requirements are met.

Comment 13: The commenter states that the proposed regulations at § 679.28(e)(1)(iii) state that the video files from the video monitoring system must output to an open source format. This regulation should be rephrased to correspond with the video output formats currently provided with commercially available equipment. Most commercially available video recording software and digital video recorders do not use, or output to, open source formats; rather, they use industry-generated standards like H.264 or MPEG4. The regulations should require video data to use formats such as H.264. This revision would establish a standard data format, but allow the use of alternative data formats, provided those formats are not proprietary and meet the performance standards set forth by the video security surveillance industry.

Response: NMFS disagrees that the proposed regulations must be changed to allow the use of multiple video data formats. The final regulations at § 679.28(e)(1)(iii) state that the video monitoring system ''must output video files to an open source format or the vessel owner must provide software capable of converting the output video file to an open source format or commercial software must be available for converting the output video file to an open source format.'' This regulation does not require that the software must use an open source format, but instead that the software has the ability to convert to an open source format. Most H.264 video compression formats have the ability to be converted to an open source format using commercially available software. However, some video surveillance systems use software that is not commercially available. These are considered custom written or proprietary format systems. Although video monitoring systems using a proprietary format may have advantages in that the video files are less likely to be manipulated, these proprietary format systems limit NMFS' ability to store and review the output video imagery from several different systems. This is problematic because these different systems may be deployed on different vessels, and so absent this requirement NMFS would have to use different proprietary video software for each vessel's system. The video

monitoring systems currently in use by all the vessels regulated by this final rule are able to output video data in an open source format that does not require NMFS to purchase specific proprietary video software. The final rule will not require one specified video format, such as H.264, because this may limit the types of video systems that could be used in this program and a specified video format may become outdated in a short period of time.

Comment 14: The proposed regulations at § 679.28(e)(1)(ii) require that video systems have at least one external Universal Serial Bus (USB) port using version 1.1 or 2.0. There are currently computers that are available that only offer USB ports with version 3.0. This regulation should be revised to include ''USB 3.0'' or remove the reference to specific versions of USB and allow any external USB port.

Response: NMFS agrees. The proposed regulations stated that the video system must have at least one external USB (1.1 or 2.0) port or other removable storage device approved by NMFS. Under the proposed rule the new industry standard USB 3.0 port would be covered because its use could be approved by NMFS. However, the commenter highlights the potential for confusion. To provide clarity, in this final rule NMFS has removed the reference to the version of USB port in the regulations at § 679.28(e)(1)(ii). With this change, the video system could have one external port using any current or future versions of USB, or any other removable storage devices that are approved by NMFS.

Comment 15: The commenter states that NMFS should consider including a minimum recording resolution for the proposed video monitoring requirements, such as 640 × 480 pixels. The proposed regulations specify that a video system must record at a speed of no less than 5 unique frames per second (FPS) at all times when the use of a video monitoring system is required (see regulations at § 679.28(e)(1)(vi)). The requirement to record at 5 unique FPS does not specify the resolution of the video image that is saved to the storage device. Without a minimum recording resolution requirement, it does not matter if images are recorded at 5 unique FPS because the quality of the image may not be adequate for review and storage.

Response: NMFS agrees and the regulations do require that the video system meet a performance standard for the recording resolution. This final rule does not specify one resolution standard because there are four different video monitoring programs, each with a different resolution need. These programs are the bin monitoring program for Amendment 80 vessels; video monitoring program on C/Ps and motherships in the BS pollock fishery, including CDQ; the video monitoring program for BSAI longline C/Ps; and the video monitoring program for flow scales. Each video monitoring program has a different monitoring objective, and a single recording resolution standard is not applicable to all of these video monitoring programs. Instead, each of these video monitoring programs describes qualitatively what the recorded resolution must be to meet the monitoring objectives. For example, regulations for BSAI longline C/Ps at § 679.28(k)(1)(i) state the video monitoring system must ''Provide sufficient resolution and field of view to monitor all areas where Pacific cod are sorted from the catch, all fish passing over the motion-compensated scale, and all crew actions in these areas.'' Other standards apply to other video monitoring programs.

Additionally, NMFS requires the vessels to identify their recording resolution on the Video Monitoring Inspection Request Form that must be submitted in order to conduct an inspection. This form and the qualitative description of the resolution for each system allow NMFS to determine if the video system will be approved.

Changes From the Proposed Rule

Eight changes to the regulations were made: Two were based on public comment and seven modify language to improve clarity of the regulations. First, in response to comment § 679.28(b)(5)(v) is changed to clarify that vessel operators that receive an at-sea scale inspection for a vessel after March 1, 2014, and before December 1, 2014, will have to comply with the calibration log requirements and fault log requirements at the time the flow scale is inspected by NMFS in 2015. All vessels that normally have their inspections completed in December 2014, and January 2015, must comply with the requirements of this final rule prior to fishing in 2015. Further discussion of this change can be found in the response to Comment 6. Second, in response to public comment, the final rule is changed at § 679.28(e)(1)(ii) to remove the specific version of USB port the video system must have. With this change, the video system could have one external port using any current or future versions of USB, or any other removable storage devices that are approved by NMFS. Further discussion of this change can be found in the response to Comment 14. Finally, editorial changes have been made to § 679.28(b)(5)(v), § 679.28(b)(5)(iii), § 679.28(b)(5)(iv), § 679.28(b)(8), § 679.28(e)(1), § 679.28(e)(1)(v), and § 679.28(e)(7) to clarify the regulations, but do not change the effect of the regulations.

OMB Revisions to Paperwork Reduction Act References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, OMB, for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule revises and adds data elements within a collection-of-information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the sections resulting from this final rule.

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB). The collection-of-information requirements are presented below by OMB control number.

OMB Control No. 0648–0213

Public reporting burden is estimated to average 31 minutes per active response and 5 minutes per inactive response for Mothership Daily Cumulative Production Logbook (DCPL)

(with this action the mothership DCPL is removed and is replaced by the mothership electronic logbook (ELB)); 30 minutes per active response and 5 minutes inactive response for C/P trawl gear DCPL; and 41 minutes per active response and 5 minutes per inactive response for C/P longline and pot gear DCPL.

OMB Control No. 0648–0330

Public reporting burden is estimated to average 45 minutes for daily record of flow scale test; 1 minute for printed reports from the calibration log; 1 minute for printed reports from the fault log; 6 minutes for request for inspection with a diagram, At-sea Scale; 2 hours for request for inspection with a diagram, Observer Sampling Station; 2 hours for request for inspection with a diagram, Flow Scale Video Monitoring System; 2 hours for request for inspection with a diagram, Freezer Longline Video Monitoring System; 2 hours for request for inspection with a diagram, Chinook Salmon Bycatch Video Monitoring System; 2 hours for request for inspection with a diagram, Bin Video Monitoring System; and 30 minutes to notify NMFS of Pacific cod Monitoring Option.

OMB Control No. 0648–0515

Public reporting burden is estimated to average 15 minutes per active response and 5 minutes per inactive response for C/P ELB (both trawl gear and longline or pot gear); and 15 minutes per active response and 5 minutes per inactive response for Mothership ELB.

Estimated responses include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 6, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'':

■ a. Remove entries for ''679.28(b), (c), (d), (e), (g), and (j)'' and ''679.28(k)''; and

■ b. Add entries in alphanumeric order for ''679.28(b), (c), (d), (e), (g), (j), and (k)''.

The additions read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
679.28 (b), (c), (d), (e), (g), (j), and (k)	–0330
* * * * *	

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 4. In § 679.5, add paragraph (f)(1)(ix) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(f) * * *

(1) * * *

(ix) *Catcher/processors and motherships required to weigh catch on NMFS-approved scales.* Catcher/processors and motherships required to weigh catch on a NMFS-approved scale must use a NMFS-approved ELB. The vessel operator must ensure that each scale is tested as specified in § 679.28(b)(3) and that the following information from all scale tests, including failed tests, is reported within 24 hours of the testing using the ELB:

(A) The weight of test material from the observer platform scale;

(B) The total weight of the test material as recorded by the scale being tested;

(C) Percent error as determined by subtracting the known weight of the test material from the weight recorded on the scale being tested, dividing that amount by the known weight of the test material, and multiplying by 100; and

(D) The time, to the nearest minute A.l.t. when testing began.

* * * * *

■ 5. In § 679.28,

■ a. Revise paragraphs (a), (b)(3) introductory text, (b)(3)(i)(B), (b)(3)(ii)(B)(*2*), and (b)(3)(iii)(B)(*7*);

■ b. Remove paragraph (b)(3)(iii)(C);

■ c. Add paragraphs (b)(5)(iii), (b)(5)(iv), and (b)(5)(v);

■ c. Revise paragraph (b)(6);

■ d. Add paragraph (b)(8); and

■ e. Revise paragraphs (b)(6), (d)(1), (d)(9)(i), (e), (i)(1)(ii) and (iii), (i)(3), (j), and (k).

The revisions and additons read as follows:

§ 679.28 Equipment and operational requirements.

(a) *Applicability.* This section contains the operational requirements for scales, observer sampling stations, vessel monitoring system hardware, catch monitoring and control plans, catcher vessel electronic logbook software, and video monitoring systems. The operator or manager must retain a copy of all records described in this section (§ 679.28) as indicated at § 679.5(a)(5) and (6) and make available the records upon request of NMFS observers and authorized officers as indicated at § 679.5(a)(5).

(b) * * *

(3) *At-sea scale tests.* To verify that the scale meets the MPEs specified in this paragraph (b)(3), the vessel operator must test each scale or scale system used by the vessel to weigh catch at least one time during each calendar day.

No more than 24 hours may elapse between tests when use of the scale is required. The vessel owner must ensure that these tests are performed in an accurate and timely manner.

(i) * * *

(B) *Test procedure.* The vessel operator must conduct a material test by weighing no less than 400 kg of test material, supplied by the scale manufacturer or approved by a NMFS-authorized scale inspector, on the scale under test. The test material may be run across the scale multiple times in order to total 400 kg; however, no single batch of test material may weigh less than 40 kg. The known weight of the test material must be determined at the time of each scale test by weighing it on a platform scale approved for use under paragraph (b)(7) of this section.

(ii) * * *

(B) * * *

(*2*) *Scales used to weigh catch.* Test weights equal to the largest amount of fish that will be weighed on the scale in one weighment.

(iii) * * *

(B) * * *

(*7*) Signature of vessel operator.

* * * * *

(5) * * *

(iii) *Printed reports from the calibration log.* The vessel operator must print the calibration log on request by NMFS employees or any individual authorized by NMFS. The calibration log must be printed and retained by the vessel owner and operator before any information stored in the scale computer memory is replaced. The calibration log must detail either the prior 1,000 calibrations or all calibrations since the scale electronics were first put into service, whichever is less. The printout from the calibration log must show:

(A) The vessel name and Federal fisheries or processor permit number;

(B) The month, day, and year of the calibration;

(C) The time of the calibration to the nearest minute in A.l.t.;

(D) The weight used to calibrate the scale; and

(E) The magnitude of the calibration in comparison to the prior calibration.

(iv) *Printed reports from the fault log.* The vessel operator must print the fault log on request by NMFS employees or any individual authorized by NMFS. The fault log must be printed and retained by the vessel owner and operator before any information stored in the scale computer memory is replaced. The fault log must detail either the prior 1,000 faults and startups, or all faults and startups since the scale electronics were first put into service, whichever is less. A fault, for the purposes of the fault log, is any condition other than underflow detected by the scale electronics that could affect the metrological accuracy of the scale. The printout from the fault log must show:

(A) The vessel name and Federal fisheries or processor permit number;

(B) The month, day, year, and time of each startup to the nearest minute in A.l.t.;

(C) The month, day, year, and time that each fault began to the nearest minute in A.l.t.;

(D) The month, day, year, and time that each fault was resolved to the nearest minute in A.l.t.

(v) *Calibration and log requirements for 2015 only.* The owner and operator of a vessel with a scale used by the vessel crew to weigh catch that was approved after March 1, 2014, and before December 1, 2014, under § 679.28(b)(2) are not required to comply with the calibration log requirements at § 679.28(b)(5)(iii) or the fault log requirements at § 679.28(b)(5)(iv) until that scale is reapproved by a NMFS-authorized scale inspector in 2015.

(6) *Scale installation requirements.* The scale display must be readable from the location where the observer collects unsorted catch unless otherwise authorized by a NMFS-authorized scale inspector.

* * * * *

(8) *Video monitoring for scales used by the vessel crew to weigh catch.* The owner and operator of a vessel fishing for groundfish who are required to weigh catch under the regulations in this section must provide and maintain a NMFS-approved video monitoring system as specified in paragraph (e) of this section. Additionally, the system must:

(i) Provide sufficient resolution and field of view to monitor: All areas where catch enters the scale, moves across the scale and leaves the scale; any access point to the scale from which the scale may be adjusted or modified by vessel crew while the vessel is at sea; and the scale display and the indicator for the scale operating in a fault state.

(ii) Record and retain video for all periods when catch that must be weighed is on board the vessel.

* * * * *

(d) * * *

(1) *Accessibility.* All the equipment required for an observer sampling station must be available to the observer at all times while a sampling station is required and the observer is aboard the vessel, except that the observer sampling scale may be used by vessel personnel to conduct material tests of the scale used to weigh catch under paragraph (b)(3) of this section, as long as the use of the observer's sampling scale by others does not interfere with the observer's sampling duties.

* * * * *

(9) * * *

(i) *How does a vessel owner arrange for an observer sampling station inspection?* The vessel owner must submit an Inspection Request for Observer Sampling Station with all the information fields accurately filled in to NMFS by fax (206–526–4066) or emailing (*station.inspections@noaa.gov*) at least 10 working days in advance of the requested date of inspection. The request form is available on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

* * * * *

(e) *Video Monitoring System Requirements*—(1) *What requirements must a vessel owner and operator comply with for a video monitoring system*? (i) The system must have sufficient data storage capacity to store all video data from an entire trip. Each frame of stored video data must record a time/date stamp in Alaska local time (A.l.t.).

(ii) The system must include at least one external USB port or other removable storage device approved by NMFS.

(iii) The system must output video files to an open source format or the vessel owner must provide software capable of converting the output video file to an open source format or commercial software must be available for converting the output video file to an open source format.

(iv) Color cameras must have at a minimum 470 TV lines of resolution, auto-iris capabilities, and output color video to the recording device with the ability to revert to black and white video output when light levels become too low for color recognition.

(v) The video data must be maintained by the vessel operator and made available on request by NMFS employees, or any individual authorized by NMFS. The data must be retained on board the vessel for no less than 120 days after the date the video is recorded, unless NMFS has notified the vessel operator that the video data may be retained for less than this 120-day period.

(vi) The system must record at a speed of no less than 5 unique frames per second at all times when the use of a video monitoring system is required.

(vii) NMFS employees, or any individual authorized by NMFS, must be able to view any video footage from any point in the trip using a 16-bit or better color monitor that can display all cameras simultaneously and must be assisted by crew knowledgeable in the operation of the system.

(viii) Unless exempted under paragraph (D) below, a 16-bit or better color monitor must be provided within the observer sampling station or at the location where the observer sorts and weighs samples. The monitor:

(A) Must have the capacity to display all cameras simultaneously;

(B) Must be operating when the use of a video monitoring system is required;

(C) Must be securely mounted at or near eye level;

(D) Is not applicable to longline C/Ps subject to § 679.100(b)(2).

(2) *How does a vessel owner or operator arrange for NMFS to conduct a video monitoring system inspection?* The vessel owner or operator must submit an Inspection Request for a Video Monitoring System to NMFS with all information fields accurately filled in at least 10 working days in advance of the requested date of inspection. The request form is available on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

(3) *What additional information is required for a video monitoring system inspection?* (i) A diagram drawn to scale showing all sorting locations, the location of the motion-compensated scale, the location of each camera and its coverage area, and the location of any additional video equipment must be submitted with the Inspection Request for a Video Monitoring System form. Diagrams for C/Ps and motherships in the BSAI pollock fishery, including pollock CDQ, must include the location of the salmon storage container.

(ii) Any additional information requested by the Regional Administrator.

(4) *Where will NMFS conduct video monitoring and bin monitoring system inspections?* Inspections will be conducted on vessels tied to docks at Dutch Harbor, Alaska; Kodiak, Alaska; and in the Puget Sound area of Washington State.

(5) A video monitoring system is approved for use when NMFS employees, or any individual authorized by NMFS, completes and signs a Video Monitoring Inspection Report verifying that the video system meets all applicable requirements of this section.

(6) A vessel owner or operator must maintain a current NMFS-issued Video Monitoring System Inspection Report on board the vessel at all times the vessel is required to provide an approved video monitoring system. The Video Monitoring System Inspection Report must be made available to the observer, NMFS personnel, or to an authorized officer upon request.

(7) *How does a vessel owner make a change to the video monitoring system?* Any change to the video monitoring system that would affect the system's functionality must be submitted by a vessel owner to, and be approved by, the Regional Administrator in writing before that change is made.

* * * * *

(i) * * *

(1) * * *

(ii) *Option 2—Line of sight option.* From the observer sampling station, the location where the observer sorts and weighs samples, and the location from which the observer collects unsorted catch, an observer of average height (between 64 and 74 inches (140 and 160 cm)) must be able to see all areas of the bin or tank where crew could be located preceding the point where the observer samples catch. The observer must be able to view the activities of crew in the bin from these locations.

(iii) *Option 3—Video monitoring system option.* A vessel owner and operator must provide and maintain a NMFS-approved video monitoring system as specified in paragraph (e) of this section. Additionally, the vessel owner and operator must ensure that:

(A) All periods when fish are inside the bin are recorded and stored;

(B) The system provides sufficient resolution and field of view to see and read a text sample written in 130 point type (corresponding to line two of a standard Snellen eye chart) from any location within the tank where crew could be located.

* * * * *

(3) *How does a vessel owner arrange for a bin monitoring option inspection?* The owner must submit an Inspection Request for Bin Monitoring to NMFS with all the information fields filled in at least 10 working days in advance of the requested date of inspection. The request form is available on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

* * * * *

(j) *Video monitoring on catcher/processors and motherships in the BS pollock fishery, including pollock CDQ.* The owner and operator of a catcher/processor or a mothership must provide and maintain a video monitoring system approved under paragraph (e) of this section. These video monitoring system requirements must be met when the catcher/processor is directed fishing for pollock in the BS, including pollock CDQ, and when the mothership is taking deliveries from catcher vessels directed fishing for pollock in the BS, including pollock CDQ. Additionally, the system must—

(1) Record and retain video for all periods when fish are flowing past the sorting area or salmon are in the storage container.

(2) The system must provide sufficient resolution and field of view to observe all areas where salmon are sorted from the catch, all crew actions in these areas, and discern individual fish in the salmon storage container.

(k) *Video monitoring in the longline catcher/processor subsector.* The owner and operator of a catcher/processor subject to § 679.100(b)(2) must provide and maintain a video monitoring system approved under paragraph (e) of this section. These video monitoring system requirements must be met when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing. Additionally, the system must:

(1) Record and retain video for all periods when Pacific cod are being sorted and weighed.

(2) Provide sufficient resolution and field of view to monitor all areas where Pacific cod are sorted from the catch, all fish passing over the motion-compensated scale, and all crew actions in these areas.

■ 6. In § 679.100, revise paragraphs (b) introductory text and (b)(2)(i)(D) and remove paragraph (d).

The revisions read as follows:

§ 679.100 Applicability.

* * * * *

(b) *Monitoring option selection.* The owner of a vessel subject to this subpart that does not opt out under paragraph (a) of this section must submit a completed notification form for one of two monitoring options to NMFS. The notification form is available on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov/*). The vessel owner must comply with the selected monitoring option at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing. If NMFS does not receive a notification to opt out or a notification for one of the two monitoring options, NMFS will assign that vessel to the increased observer coverage option under paragraph (b)(1) of this section

until the notification form has been received by NMFS.

* * * * *

(2) * * *

(i) * * *

(D) The vessel is in compliance with the video monitoring requirements described at § 679.28(k).

* * * * *

[FR Doc. 2014–27081 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9657]

RIN 1545–BL73

Regulations Relating to Information Reporting by Foreign Financial Institutions and Withholding on Certain Payments to Foreign Financial Institutions and Other Foreign Entities; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final and temporary regulations (TD 9657), which were published in the **Federal Register** on Thursday, March 6, 2014 (79 FR 12812). The regulations relate to information reporting by foreign financial institutions (FFIs) with respect to U.S. accounts and withholding on certain payments to FFIs and other foreign entities.

DATES: *Effective Date:* This correction is effective on November 18, 2014.

Applicability Date: This correction is applicable beginning March 6, 2014.

FOR FURTHER INFORMATION CONTACT: Kamela Nelan, (202) 317–6942 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains an amendment to the Income Tax Regulations (26 CFR part 1) under section 1471 through 1474 of the Internal Revenue Code that were published in final and temporary regulations in TD 9657. Sections 1471 through 1474 were added to the Code, as Chapter 4 of Subtitle A, by the Hiring Incentives to Restore Employment Act of 2010 (Pub. L. 111–147, 124 Stat. 71). The temporary regulation that is the subject of this correcting amendment is § 1.1471–4T. This correcting amendment affects FFIs that have entered into an agreement with the IRS to obtain status as a participating FFI and to, among other things, report certain information with respect to U.S. accounts that they maintain.

Need for Correction

As published, the temporary regulations contain an error that is misleading with respect to the reporting requirements of participating FFIs (as defined in § 1.1471–1(b)(91)) maintaining U.S. accounts during the 2014 calendar year. This correcting amendment modifies the last date in the first sentence in § 1.1471–4T(d)(7)(iv)(B) to correct the relevant provision to meet its intended purpose.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

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

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

Section 1.1471–4 is also issued under 26 U.S.C. 1471

■ **Par. 2.** Section 1.1471–4T is amended by revising the first sentence of paragraph (d)(7)(iv)(B).

The revision reads as follows:

§ 1.1471–4T FFI agreement (temporary).

* * * * *

(d) * * *

(7) * * *

(iv) * * *

(B) *Special determination date and timing for reporting with respect to the 2014 calendar year.* With respect to the 2014 calendar year, a participating FFI must report under paragraph (d)(3) or (5) of this section on all accounts that are identified and documented under paragraph (c) of this section as U.S. accounts or accounts held by owner-documented FFIs as of December 31, 2014, (or as of the date an account is closed if the account is closed prior to December 31, 2014) if such account was outstanding on or after the effective date of the participating FFI's FFI agreement.

* * *

* * * * *

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2014–27248 Filed 11–17–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 83, 84, and 88

[Docket No. USCG–2012–0102]

RIN 1625–AB88

Changes to the Inland Navigation Rules, Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing this final rule to make non-substantive changes to its regulations. This final rule makes conforming amendments and technical corrections to the Coast Guard's Inland Navigation Rules. These changes will have no substantive effect on the regulated public.

DATES: This final rule is effective November 18, 2014.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket USCG–2012–0102 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to, inserting USCG–2012–0102 in the ''Search'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this final rule, call or email Lieutenant Commander Megan L. Cull, Coast Guard; telephone 202–372–1565, email *megan.l.cull@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

CFR Code of Federal Regulations
COLREGS Convention on the International Regulations for Preventing Collisions at Sea
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
OMB Office of Management and Budget
Pub. L. Public Law
§ Section symbol
U.S.C. United States Code

II. Regulatory History

Under 5 U.S.C. 553(b)(A), the Coast Guard finds this final rule is exempt from notice and comment rulemaking requirements because the changes in this final rule involve rules of agency organization, procedure, or practice. Therefore, we did not publish a notice of proposed rulemaking for this final rule. Also, the Coast Guard finds for good cause that notice and comment procedures are unnecessary under 5 U.S.C. 553(b)(B) because this final rule consists only of corrections and editorial, organizational, and conforming amendments. None of these changes will have substantive effect on the public. Under 5 U.S.C. 553(d)(3), we find that, for the same reasons, good cause exists for making this final rule effective upon publication in the **Federal Register**.

III. Basis and Purpose

This final rule is issued under the authority of 5 U.S.C. 552, 553, App. 2, 14 U.S.C. 2, 631, 632, and 633; Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); and Department of Homeland Security Delegation No. 0170.1.

The Coast Guard published a final rule entitled ''Changes to the Inland Navigation Rules'' in the **Federal Register** on July 2, 2014 (79 FR 37898). The July 2, 2014 rule amended the Coast Guard's inland navigation rules in 33 CFR parts 83–88. The July 2, 2014 rule contained several non-substantive technical errors. This final rule, which becomes effective November 18, 2014, makes technical and editorial corrections to 33 CFR parts 83, 84, and 88.

IV. Discussion of the Rule

This final rule amends the Inland Navigation Rules in 33 CFR parts 83, 84, and 88. Functional requirements, organizations and reporting structures are not affected by this final rule.

This final rule amends the table of contents in 33 CFR part 83 so that the title of § 83.30 reads, ''Vessels anchored, aground and moored barges.''

This final rule amends § 83.06(a)(iv) to correct a typographical error. We are changing the word ''shores'' to the singular ''shore.''

This final rule amends § 83.18(e) to correct a typographical error. The reference to ''§ 83.4'' is incorrect. We are changing the text to contain a reference to the appropriate ''§ 83.04.'' This final rule also amends § 83.18(f)(ii) to correct the same typographical error.

This final rule amends § 83.22(c) to correct an incorrectly numbered sub-paragraph (iv). We are changing § 83.22(c) so that it appropriately contains sub-paragraphs (i) through (vi).

This final rule amends § 83.24(g)(iii) to correct a typographical error. We are changing the word ''Provided'' so that it will no longer be capitalized.

This final rule amends § 83.27(b)(iii) to correct a typographical error. We are capitalizing the word ''when'' for consistency with the remainder of that paragraph.

This final rule amends § 83.27(e)(ii) to replace the word ''insure'' with ''ensure'' for consistency with the language in the COLREGS.

This final rule amends § 83.35(h) to correct a typographical error. The internal reference to paragraph (f) is incorrect. We are changing the text to contain a reference to the appropriate paragraph (g).

This final rule amends § 84.02(j) to insert the word ''at'' for grammatical clarity and consistency with the language in the COLREGS.

Finally, this final rule amends § 88.07(a) to capitalize the words ''inland navigation rules.''

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the 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. The provisions of this final rule are technical and non-substantive; they will have no substantive effect on the public and will impose no additional costs. This final rule is not a significant regulatory action under section 3(f) of E.O. 12866 as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), rules exempt from the notice and comment requirements of the Administrative Procedure Act are not required to examine the impact of the rule on small entities. Nevertheless, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

There is no cost to this final rule, and we do not expect it to have an impact on small entities because the provisions of this rule are technical and non-substantive. It will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Mugo Macharia by phone at 202–372–1472 or via email at *Mugo.Macharia@uscg.mil*.

The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Federalism

A rule has implications for federalism under E.O. 13132 (''Federalism'') if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any 1 year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This final rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

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

I. Protection of Children

We have analyzed this final rule under E.O. 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This final rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this final rule under E.O. 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 Note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(a) and (b) of the Instruction. This final rule involves regulations that are editorial or procedural, or that concern internal agency functions or organizations. An environmental analysis checklist and a categorical exclusion determination are available in the docket for this final rule where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 83

Navigation (water), Waterways.

33 CFR Part 84

Navigation (water), Waterways.

33 CFR Part 88

Navigation (water), Waterways.

For the reasons discussed in the preamble, under the authority of 33 CFR 1.05–1, the Coast Guard amends 33 CFR parts 83, 84, and 88 as follows:

PART 83—RULES

■ 1. The authority citation for part 83 continues to read as follows:

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 83.06 [Amended]

■ 2. In § 83.06, in paragraph (a)(iv), remove the word ''shores'' and add in its place the word ''shore''.

§ 83.18 [Amended]

■ 3. In § 83.18, in paragraphs (e) and (f)(ii), remove the citation ''§§ 83.4'', wherever it appears, and add in its place ''§§ 83.04''.

■ 4. In § 83.22, revise paragraph (c) to read as follows:

§ 83.22 Visibility of lights (Rule 22).

* * * * *

(c) In a vessel of less than 12 meters in length—

(i) A masthead light, 2 miles;

(ii) A sidelight, 1 mile;

(iii) A sternlight, 2 miles;

(iv) A towing light, 2 miles;

(v) A white, red, green or yellow all-round light, 2 miles; and

(vi) A special flashing light, 2 miles.

* * * * *

§ 83.24 [Amended]

■ 5. In § 83.24, in paragraph (g)(iii), after the phrase ''shall not exceed 100 meters:'', remove the word ''Provided'', and add in its place the word ''provided''.

§ 83.27 [Amended]

■ 6. Amend § 83.27 as follows:

■ a. In paragraph (b)(iii), remove the word ''when'', and add in its place the word ''When''; and

■ b. In paragraph (e)(ii), remove the word ''insure'' and add in its place the word ''ensure''.

■ 7. Revise the heading for § 83.30 to read as follows:

§ 83.30 Vessels anchored, aground and moored barges (Rule 30).

* * * * *

§ 83.35 [Amended]

■ 8. In § 83.35, in paragraph (h), remove the words ''paragraph (f)'' and add in their place the words ''paragraph (g)''.

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

■ 9. The authority citation for part 84 continues to read as follows:

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 84.02 [Amended]

■ 10. In § 84.02, in paragraph (j), after the phrase ''when engaged in fishing shall be'', add the word ''at''.

PART 88—ANNEX V: PILOT RULES

■ 11. The authority citation for part 88 continues to read as follows:

Authority: Sec. 303, Pub. L. 108–293, 118 Stat. 1042 (33 U.S.C. 2071); Department of Homeland Security Delegation No. 0170.1.

§ 88.07 [Amended]

■ 12. In § 88.07, in paragraph (a), following the phrase ''activities must abide by the'', remove the phrase ''inland navigation rules'' and add in its place the phrase ''Inland Navigation Rules''.

Dated: November 13, 2014.

Katia Cervoni,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2014–27257 Filed 11–17–14; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Part 201

[Docket No. 2014–08]

Fees for Submitting Corrected Electronic Title Appendices

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office recently adopted amended regulations to allow remitters to submit title lists in electronic format when recording documents that reference 100 or more titles. Those regulations also provide a process for correcting inaccuracies in the Office's online Public Catalog resulting from errors in electronic title lists. To avoid delay in implementing the electronic title list option, the Office decided to issue that final rule without imposition of a fee for corrections until such time as a fee could be set in accordance with this separate rulemaking. Today, the Office is amending its regulations to set that fee at a rate of seven dollars per corrected title.

DATES: Effective December 18, 2014.

FOR FURTHER INFORMATION CONTACT: Sarang V. Damle, Special Advisor to the General Counsel, by email at *sdam@loc.gov* or by telephone at 202–707–8350; or Abi Oyewole, Attorney-Advisor, by email at *aoye@loc.gov* or by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION: On September 17, 2014, under a rulemaking entitled ''Changes to Recordation Practices,'' the Copyright Office (''Office'') amended its regulations to, among other things, allow remitters to submit lists of titles in electronic format when recording documents that reference 100 or more titles of copyrighted works. *See* 79 FR 55633. Those electronic lists are used by the Office for the purposes of indexing the online Public Catalog of recorded documents. In response to a comment received from the Recording Industry Association of America, Inc. (''RIAA''),[1] the amended regulations also adopted a procedure for correcting errors in the online Public Catalog that have been caused by remitters' submission of inaccurate title lists. *See* 37 CFR 201.4(c)(4)(v). However, to avoid delay in implementing the electronic title list option, the Office decided to issue that final rule without imposition of a fee for corrections until a fee could be set in accordance with a separate Notice of Proposed Rulemaking (''NPRM'').

That separate NPRM was published on September 17, 2014 and proposed a fee of seven dollars per corrected title. 79 FR 55694. The Office received only one substantive submission containing comments from RIAA.[2] In its comments, RIAA expressed approval of the Office's decision to implement a correction process for electronic title lists. RIAA Comments at 1. It stated that it believed the number of errors found in an electronic title list would be small, and in such cases the $7 fee was ''reasonable.'' *Id.* But, it urged that in the ''presumably rare situations where a major clerical error requires a remitter to correct a large number of titles, a fee of $7 per title could serve as a disincentive for correcting the Office's records or as a penalty for having made a mistake in the first instance.'' *Id.* at 1–2. RIAA suggested that the Office ''track instances of large-scale corrections to electronic lists'' and consider a ''fee structure'' that would reduce the fee per corrected title once remitters exceed a set number of errors. *Id.* at 2.

As the NPRM explained, the fee of seven dollars per corrected title was determined after considering the various personnel and system costs associated with providing the new service. 79 FR at 55695. What RIAA proposes, in essence, is that remitters who submit lists with a large number of errors be given a ''volume discount'' that is below the Office's costs.

The Office declines to adopt this recommendation. To the extent the fee established here will have any effect on remitter behavior, the Office believes that it will principally serve as an *incentive* for submitting accurate electronic title lists in the first place, rather than as ''a disincentive for correcting the Office's records.'' RIAA Comments at 1–2. As the Office has stressed, remitters should ''establish[ ] appropriate internal procedures to review and confirm electronic lists before they are submitted to the Office.'' 79 FR at 55634. In any event, the statute itself provides an incentive for the submission of correct information as the benefits of recordation depend upon the

[1] Recording Industry Ass'n of Am., Inc., Comments Submitted in Response to U.S. Copyright Office's July 16, 2014 Notice of Proposed Rulemaking (Aug. 15, 2014), *available at http://copyright.gov/rulemaking/recordation-practices/docket2014-4/comments/RIAA.pdf.*

[2] Recording Industry Ass'n of Am. Inc., Comments Submitted in Response to U.S. Copyright Office's September 17, 2014 Notice of Proposed Rulemaking (Oct. 17, 2014) (''RIAA Comments''), *available at http://copyright.gov/rulemaking/etitle-fees/comments/docket_2014%E2%80%9308/RIAA.pdf.*

accurate identification and indexing of titles affected. *See* 17 U.S.C. 205(c)–(d).

List of Subjects in 37 CFR Part 201

Copyright.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 201 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Amend § 201.3 by revising paragraph (c)(16) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(c) * * *

Registration, recordation and related services	Fees ($)
* * * * * * *	
(16) Recordation of document, including a notice of intention to enforce	
(single title)	105
Additional titles (per group of 1 to 10 titles)	35
Correction of online Public Catalog data due to erroneous electronic title submission (per title)	7
* * * * * * *	

* * * * *

■ 3. Amend § 201.4 by revising the last sentence of paragraph (c)(4)(v) to read as follows:

§ 201.4 Recordation of transfers and certain other documents.

* * * * *

(c) * * *

(4) * * *

(v) * * * Upon receipt of a corrected electronic list in proper form and the appropriate fee, the Office will proceed to correct the data in the online Public Catalog, and will make a note in the record indicating that the corrections were made and the date they were made.

* * * * *

Dated: October 30, 2014.

Maria A. Pallante,

Register of Copyrights.

Approved by:

James H. Billington,

Librarian of Congress.

[FR Doc. 2014–27274 Filed 11–17–14; 8:45 am]

BILLING CODE 1410–30–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2012–5]

Verification of Statements of Account Submitted by Cable Operators and Satellite Carriers

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is adopting a final rule that establishes a new regulation allowing copyright owners to audit the statements of account that cable operators and satellite carriers file with the Office reflecting royalty payments due for secondary transmissions of copyrighted broadcast programming made pursuant to statutory licenses.

DATES: Effective on December 18, 2014.

FOR FURTHER INFORMATION CONTACT: Jacqueline C. Charlesworth, General Counsel and Associate Register of Copyrights, by email at *jcharlesworth@loc.gov,* or by telephone at 202–707–8350; Erik Bertin, Assistant General Counsel, by email at *ebertin@loc.gov,* or by telephone at 202–707–8350; or Sy Damle, Special Advisor to the General Counsel, by email at *sdam@loc.gov,* or by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 111 and 119 of the Copyright Act (the ''Act''), Title 17 of the United States Code, allow cable operators and satellite carriers to retransmit programming that broadcast television stations transmit via over-the-air broadcast signals. To use these statutory licenses, cable operators and satellite carriers are required to file statements of account (''SOAs'') and deposit royalty fees with the U.S. Copyright Office (''Office'') on a semi-annual basis. The Office invests these royalties in United States Treasury securities pending distribution of the funds to copyright owners that are entitled to receive a share of the royalties.

The Satellite Television Extension and Localism Act of 2010 (''STELA''), Pub. L. No. 111–175, amended the Act by directing the Register of Copyrights to issue regulations to allow copyright owners to audit the SOAs and royalty fees that cable operators and satellite carriers file with the Office. Section 119(b)(2) of the Act directs the Register to ''issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.'' 17 U.S.C. 119(b)(2). Similarly, section 111(d)(6) directs the Register to ''issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to [section 111] of the information reported on the semiannual statements of account filed under this subsection for accounting periods beginning on or after January 1, 2010, in order that the auditor designated under subparagraph [111(d)(6)(A)] is able to confirm the correctness of the calculations and royalty payments reported therein.'' 17 U.S.C. 111(d)(6).

On June 14, 2012, the Office issued a Notice of Proposed Rulemaking that set forth its initial proposal for the audit procedure (the ''First Proposed Rule''). *See* 77 FR 35643 (June 14, 2012). In drafting this proposal the Office considered similar audit regulations that the Office developed for parties that make ephemeral recordings or transmit digital sound recordings under 17 U.S.C. sections 112(e) and 114(f), respectively, or manufacture, import, and distribute digital audio recording devices under 17 U.S.C. chapter 10. The Office also considered a joint proposal (''the Petition for Rulemaking'') that was submitted by the Motion Picture Association of America, Inc. (''MPAA''), its member companies, and other

companies that produce and distribute movies, series, and specials that are broadcast on television (the ''Program Suppliers''), as well as other groups that represent copyright owners that share in the royalties paid by the cable and satellite industries.[1]

The Office received extensive comments on the First Proposed Rule from groups representing copyright owners,[2] cable operators,[3] and individual companies that retransmit broadcast programming under sections 111 or 119 of the Act, namely, AT&T, Inc., DIRECTV, LLC, and DISH Network L.L.C.[4] In lieu of reply comments, DIRECTV, the NCTA, and a group representing certain copyright owners [5] submitted a joint proposal for revising the First Proposed Rule. This group referred to themselves collectively as the ''Joint Stakeholders,'' and they urged the Office to incorporate their suggestions ''as promptly as possible after receiving any further public comment.'' JS First Submission at 1.[6]

The Office carefully studied the Joint Stakeholders' proposal and the other comments submitted in response to the First Proposed Rule. The Joint Stakeholders' proposal addressed many of the concerns that the parties raised in their initial comments. The Office therefore incorporated most of the Joint Stakeholders' suggestions into a revised proposed regulation (the ''Second Proposed Rule'').

On May 9, 2013, the Office published the Second Proposed Rule in the **Federal Register** and invited AT&T, DISH, the ACA, the Broadcaster Claimants Group, the Commercial Television Claimants, and other interested parties to comment on the proposed regulation. The Office also invited reply comments from the Joint Stakeholders and other interested parties. *See* 78 FR 27137, 27138 (May 9, 2013). The Office received comments from AT&T and the ACA, and it received reply comments from the ACA, the NCTA, and a group representing the copyright owners that negotiated the Joint Stakeholders' Proposal with the NCTA and DIRECTV.[7] The parties raised a number of complex issues, including issues of first impression that were not addressed in the comments or reply comments submitted in response to the First Proposed Rule.

On December 26, 2013, the Office issued an interim rule that addresses a procedural issue that was not contested by the parties (the ''Interim Rule''). Specifically, the Interim Rule allows copyright owners to identify any SOAs from accounting periods beginning on or after January 1, 2010 that they intend to audit. At the same time, it provides licensees with advance notice of the SOAs that will be subject to audit when this final rule goes into effect. *See* 78 FR 28257 (Dec. 26, 2013).

After analyzing the comments submitted in response to the Second Proposed Rule, the Office identified a number of issues that were not addressed in the prior proposals. Because the Office believed these issues might be narrowed through group discussion, it decided to convene a public roundtable before issuing another notice of proposed rulemaking. *See* 79 FR 31992 (June 3, 2014). During the roundtable the Office received valuable input from parties that previously submitted comments in this proceeding, including the MPAA, the Commissioner of Baseball, the NCTA, the ACA, and DIRECTV. The Office also received guidance from the Royalty Review Council (''RRC''),[8] a company that conducts audits on behalf of content owners and licensees in the music industry.

The issues discussed at the roundtable are summarized in the Office's **Federal Register** document dated June 3, 2014 (the ''Roundtable Notice''). 79 FR 31992. Following the roundtable, the Joint Stakeholders consulted with each other regarding three of these issues, namely: (i) Whether there should be an initial consultation between the auditor and a representative of the licensee and the participating copyright owners prior to the commencement of an audit; (ii) the accounting standard that should govern the audit; and (iii) the procedure for allocating the cost of an audit between the participating copyright owners and the licensee. On July 31, 2014, the Joint Stakeholders informed the Office that they had reached a consensus on two of these issues and they offered specific recommendations for modifying certain aspects of the proposed rule.[9] JS Second Submission at 1–2.

After reviewing the comments and reply comments submitted in response to the Second Proposed Rule, the input provided during the roundtable, and the Joint Stakeholders' Second Submission, the Office made several changes to the proposed rule (the ''Third Proposed Rule''). On September 17, 2014, the Office published the Third Proposed Rule in the **Federal Register** and invited interested parties to comment on the revised proposal. 79 FR 55696. The Office received comments from the Program Suppliers and the NCTA on four aspects of the proposed rule, which are discussed in section II below.[10] After reviewing these comments the Office has made modest changes to the proposal (discussed below) that are incorporated into the final rule (the ''Final Rule''). In addition, the Office has made minor technical amendments to the Final Rule that are summarized in footnotes 11, 13–15, and 17–21.[11]

[1] The groups that joined the Program Suppliers in submitting the Petition for Rulemaking included the Joint Sports Claimants (professional and college sports programming), National Association of Broadcasters (''NAB'') (commercial television programming), Commercial Television Claimants (local commercial television programming), Broadcaster Claimants Group (U.S. commercial television stations), American Society of Composers, Authors and Publishers (''ASCAP'') (musical works included in television programming), Broadcast Music, Inc. (''BMI'') (same), Public Television Claimants (noncommercial television programming), Public Broadcasting Service (''PBS'') (same), National Public Radio (''NPR'') (noncommercial radio programming), Canadian Claimants Group (Canadian television programming), and Devotional Claimants (religious television programming).

[2] The copyright owners that submitted comments on the First Proposed Rule included the Program Suppliers, Joint Sports Claimants, Commercial Television Claimants, Broadcaster Claimants Group, ASCAP, BMI, SESAC, Inc., Public Television Claimants, Canadian Claimants Group, Devotional Claimants, and NPR. Although the NAB and PBS joined their fellow copyright owners in submitting the Petition for Rulemaking, they did not submit any comments in this proceeding.

[3] The National Cable & Telecommunications Association (''NCTA'') and the American Cable Association (''ACA'') filed comments on the First Proposed Rule on behalf of cable operators.

[4] Citations to the comments submitted in response to the First Proposed Rule are abbreviated ''[Name of Party] First Comment.''

[5] The copyright owners that joined the NCTA and DIRECTV in submitting the Joint Stakeholders' proposal included the Program Suppliers, Joint Sports Claimants, ASCAP, BMI, SESAC, Public Television Claimants, Canadian Claimants Group, Devotional Claimants, and NPR. The Commercial Television Claimants, the Broadcaster Claimants Group, the NAB, and PBS did not join their fellow copyright owners in submitting this proposal.

[6] Citations to the proposals submitted by Joint Stakeholders are abbreviated ''JS First Submission'' and ''JS Second Submission''.

[7] Citations to the comments submitted in response to the Second Proposed Rule are abbreviated ''[Name of Party] Second Comment'' and ''[Name of Party] Second Reply.'' For example, citations to the copyright owners' reply comments are abbreviated ''CO Second Reply.'' This group included all the copyright owners listed in footnote five except for the Commercial Television Claimants, the Broadcaster Claimants Group, the NAB, and PBS.

[8] In its **Federal Register** document dated September 17, 2014 the Office erroneously referred to the Royalty Review Council by the name of its affiliated company, ''Crunch Digital.'' 79 FR at 55696.

[9] The parties that submitted these recommendations are identified in footnote five.

[10] Citations to the comments submitted in response to the Third Proposed Rule are abbreviated ''[Name of Party] Third Comment.'' All of the comments submitted in this proceeding are posted on the Office's Web site at *http://copyright.gov/docs/soaaudit/soa_audit.html.*

[11] The Final Rule will supersede the Interim Rule in its entirety. Until the Final Rule becomes effective, copyright owners may use the Interim

II. Discussion

A. Accounting Standard

In the Second Proposed Rule the Office proposed that audits be conducted according to generally accepted auditing standards (''GAAS''), but in the Roundtable Notice the Office questioned whether this would be an appropriate standard. 78 FR at 27151; 79 FR at 31994. At the roundtable RRC confirmed that accountants apply GAAS when auditing corporate financial statements, but indicated that those standards are not directly relevant to the type of audit contemplated by this rule. In RRC's view, the auditor should not be required to apply a particular standard under the proposed rule; instead the parties should be encouraged to discuss this issue during an initial consultation about the conduct of the audit. 79 FR at 55701. For their part, the Joint Stakeholders were unable to reach agreement (either at the roundtable or in their written submissions) on what standard, if any, should be specified in lieu of GAAS. JS Second Submission at 1.

Given the lack of consensus on this issue, the Office decided to eliminate the provision that would require the auditor to apply a particular audit standard; instead, the Third Proposed Rule would allow the parties to review the ''methodology'' for the audit during the initial consultation. 79 FR at 55701. The Office also indicated that it had reached a final decision on this issue. *Id.* at 55697 n.11.

The NCTA urges the Office to reconsider its decision. NCTA Third Comment at 2. It notes that other regulations adopted by the Office contain express provisions directing auditors and accountants to apply GAAS or the attestation standards established by the American Institute of Certified Public Accountants (''AICPA''). *Id.* at 2 & n.5 (citing 37 CFR 210.17(f)(2)(i)(A) (attestation), 201.30(e) (GAAS); 260.6(e) (GAAS), 261.7(e) (GAAS), 262.7(e) (GAAS)). The NCTA worries that the failure to designate an appropriate standard for audits involving cable operators and satellite carriers could complicate and delay the verification process. *See id.* at 2–3. Instead, the NCTA suggests that the auditor should be required to apply the AICPA's attestation standard as the ''default'' rule, but the parties should be allowed to modify that standard by mutual agreement. *Id.* at 2. The NCTA states that this ''will provide the participants in the audit with helpful certainty'' while giving them ''the flexibility to adjust the standard if that would better serve the[ir] mutual interests.'' *Id.* at 3.

The Office has considered the NCTA's concerns, but concludes that it is unnecessary to specify a particular standard that should be applied in conducting audits under this Final Rule. Neither the NCTA nor any of the other parties provides any basis on which the Office can select a particular auditing standard that should govern these proceedings. Therefore, the Office is in no position to determine whether GAAS or attestation standards should be specified in the Final Rule (either as a mandatory requirement or as a default rule that would be subject to modification by the parties if they so agree). Instead, consistent with the recommendation of RRC (an experienced auditor) the Final Rule gives the auditor the flexibility to apply a standard of review that—in his or her professional judgment—would be most appropriate for this type of audit. To ensure that the standard is made clear to the licensee, the Final Rule requires the parties to address the applicable auditing standard during the initial consultation.

B. Supplementary Royalty Payments

The Third Proposed Rule specified that a licensee could cure underpayments identified in the auditor's final report by depositing additional royalties with the Office. Paying additional royalties directly to the participating copyright owners pursuant to a negotiated settlement would not satisfy this requirement because, as the Office explained, this would unfairly prevent non-participating copyright owners from claiming an appropriate share of those payments. 79 FR at 55704.

The Program Suppliers object to the requirement that additional royalties be paid to the Office, contending that it will discourage negotiated settlements. PS Third Comment at 3. The Program Suppliers urge that such settlements offer ''a fair and valuable means'' for copyright owners and licensees to resolve their differences, and that the Third Proposed Rule will discourage such settlements from taking place. *Id.* at 1–3. They also contend that the Third Proposed Rule will create a free rider problem. *See id.* at 3. Copyright owners that decline to participate in the audit process will be entitled to claim a share of any additional royalties that are deposited with the Office as a result of the audit, but will not be required to pay for the auditor's services. The Program Suppliers assert that this is unfair, because the participating copyright owners will be forced to pay for the audit but will receive only some of the resulting benefits. The Program Suppliers contend that negotiated settlements (*i.e.,* allowing a licensee to make supplemental royalty payments directly to the participating copyright owners instead of depositing them with the Office) ''would substantially reduce the free rider problem.'' [12] *Id.*

The Office has considered the Program Suppliers' comments but declines to incorporate their suggestion into the Final Rule. The statute states that the auditor should be given the ''exclusive authority'' to audit an SOA and that the auditor should review that statement ''on behalf of all copyright owners whose works were subject of secondary transmissions of primary transmissions by the [licensee] (that deposited the statement) during the accounting period covered by the statement.'' 17 U.S.C. 111(d)(6)(A)(i). That is, the auditor should conduct the audit on behalf of any party that owns a copyrighted work that was embodied in a secondary transmission made by the licensee, regardless of whether that party decides to participate in the audit or not.[13] *See* 77 FR at 35647.

The statute also provides that the Office ''shall issue regulations'' that ''shall . . . establish a mechanism for the [licensee] to remedy any errors identified in the auditor's report and to cure any underpayment identified.'' [14]

Rule to preserve their right to audit any SOA that was filed with the Office for accounting periods 2010–2 through 2014–1. (As of November 7, 2014 the Office has not received any notices filed pursuant to the Interim Rule.) The Final Rule clarifies that ''[i]f the Office has received a notice of intent to audit prior to the effective date of this [rule],'' it will publish a notice in the **Federal Register** within thirty days thereafter as contemplated by the Interim Rule, although the audit itself will be conducted in accordance with the Final Rule.

[12] Specifically, the Program Suppliers contend that the availability of negotiated settlements will encourage copyright owners to conduct a cost-benefit analysis when deciding whether to opt in or opt out of an audit. PS Third Comment at 3–4. If the possibility of obtaining a share of the additional royalties from the licensee outweighs the cost of participating in the audit, a copyright owner might decide to opt in; but if the certainty of avoiding those costs outweighs the risk of not receiving a share of the additional royalties, that party might decide to opt out. *See id.*

[13] The auditor will review the statements that the licensee filed with the Office and the royalty payments reported therein, but the auditor will not audit the actual payments that the licensee deposited with the Office. To clarify this point, the Office removed the term ''royalty fee payments'' from the heading and paragraph (a) of the Final Rule.

[14] In addition, the statute directs the Office to issue regulations that ''require a consultation period for the independent auditor to review its conclusions with a designee of the [licensee].'' 17 U.S.C. 111(d)(6)(C)(i). Under the Third Proposed Rule the auditor would be required to consult with

Continued

17 U.S.C. 111(d)(6)(C)(ii). In other words, Congress envisioned a regulatory procedure for curing underpayments that would be administered by the Office. Indeed, remedying an error in an SOA and curing any associated underpayment necessarily requires submission of a corrected statement and royalty payment to the Office; a private settlement with a specific copyright owner could not accomplish that objective. Accordingly, in response to Congress's directive, the Office decided to use an existing administrative procedure that allows a licensee to cure underpayments by depositing additional royalties with the Office. *See* 77 FR at 35648. The Program Suppliers correctly note that any copyright owner would be allowed to claim an appropriate share of any additional royalties that are deposited with the Office as a result of this process, even if that party did not participate in the audit or pay for the auditor's services.[15] *See id.* at 35649; PS Third Comment at 2 (noting that section 111(d)(4) of the Copyright Act ''entitles eligible [copyright] owners to share in all royalties contained in any year's fund, no matter how [those funds were] collected (*e.g.,* additional royalties collected due to the Licensing Division's SOA examination)'').

Although there is no legislative history for STELA, the approach that the Office adopted in the Final Rule is supported by the House Report for a prior version of the legislation. In that report, Congress indicated that following an audit, the licensee could cure any shortfall in royalty payments by using the ordinary method for correcting statements of account under the Office's regulations, *i.e.,* filing amended statements of account and supplemental royalty fees with the Office: ''The regulations should permit a cable operator . . . to amend its statement of account and to supplement its royalty payments (subject to the filing fee and interest requirements generally applicable to late, corrected, or supplemental statements of account and royalty fees) to conform with the auditor's findings.'' H.R. Rep. No. 111–319, at 10 (2009).

The Program Suppliers consistently supported this approach throughout this proceeding. In their Petition for Rulemaking, the Program Suppliers and their fellow copyright owners encouraged the Office to establish a procedure that would allow a licensee to ''cure any underpayment identified [in the auditor's report] (subject to the filing fee and interest requirements generally applicable to late, corrected, or supplemental Statements of Account and royalty fees).'' Petition for Rulemaking, Ex. A, ¶ 9(iii), Ex. B. ¶ 9(iii). In other words, the Program Suppliers believed that licensees should be given an opportunity to cure an underpayment by submitting additional royalties to the Office (as opposed to paying them directly to the participating copyright owners). The Office included similar language in its First Proposed Rule and the Program Suppliers and their fellow copyright owners supported that proposal in their first round of comments.[16]

Likewise, in the Joint Stakeholders' First Submission, the Program Suppliers and their fellow copyright owners urged the Office to adopt a procedure that would allow a licensee to cure an ''underpayment by filing with the Office an amendment to the Statement of Account and supplemental royalty fee payments utilizing the procedures set forth in sections 201.11(h) or 201.17(m)'' of the Office's regulations. JS First Submission at 8. Once again, the Office incorporated that suggestion in both the Second and Third Proposed Rules. *See* 78 FR at 27144–45; 79 FR at 55704.

Contrary to the Program Suppliers' contention, the approach that the Office adopted in the Third Proposed Rule and the Final Rule does not ''discourage'' or ''preclude negotiated settlements'' between the participating copyright owners and the licensee. PS Third Comment at 1. The parties would still be able to discuss and agree to the amount of any additional royalties due from the licensee—presumably using the auditor's conclusions and the licensee's written rebuttal as reference points. If the parties reached a mutually acceptable agreement, the Final Rule would then require the licensee to deposit any additional payments with the Office for the benefit of all copyright owners.[17] Notably, the Program Suppliers acknowledge that ''direct deposit with the Copyright Office, [will] provide a valuable mechanism for avoiding infringement litigation related to royalty underpayment, thus furthering the object of the audit rights process.'' *Id.* at 4.

Even if the Final Rule might benefit some ''free riders,'' the Program Suppliers do not suggest that this would dissuade all copyright owners from using the audit procedure. In fact, the participating copyright owners enjoy a number of benefits that are not available to copyright owners that do not elect to join the proceeding. As the Program Suppliers note, copyright owners that decline to participate ''have no control over or interaction with the auditor.'' *See id.* at 2. Nor are they entitled to receive a copy of the audit report, which could make it more difficult to take action if the licensee fails to cure any underpayments.

By contrast, the participating copyright owners can direct the audit process by selecting the licensee and the statements that are subject to audit,[18] nominating the auditor who will review the licensee's records, and identifying issues or irregularities that the auditor should consider in his or her review. At the beginning of the audit, the participating copyright owners will receive a list of the broadcast signals that the licensee transmitted during the accounting periods that are subject to the audit, including the call sign for each broadcast signal and each multicast signal (as well as the classification of each signal on a community-by-community basis in an audit involving a cable system). *See* 79 FR at 55700. As the Program Suppliers and their fellow copyright owners noted in their second round of comments, this ''provides tangible benefits'' for the participating copyright owners by helping them to determine whether the

the licensee ''for no more than thirty days.'' 79 FR at 55710. The Final Rule retains this requirement but clarifies that the auditor should consult with the licensee ''for up to thirty days'' since the auditor and the licensee may not need this much time in some cases.

[15] The Third Proposed Rule provided that other copyright owners may participate in the audit if they provide a written notice to the licensee and the party that filed the initial notice with the Office. It also provided that this notice should be sent to the Office at the address designated for time-sensitive requests. The Final Rule corrects this discrepancy by clarifying that the written notice should be sent to the Office, the licensee, and the party that filed the initial notice with the Office, and that notices submitted to the Office should be sent to the address specified in § 201.1(c)(1) of the regulations.

[16] *See* 77 FR at 35648–49; CO First Comment at 8–9 (if the ''auditor concludes that a licensee has not paid the appropriate royalties for the use of the license, the Office should require that a licensee who wishes to take advantage of STELA's safe harbor . . . must file a supplemental SOA and accompanying payment. . . .'').

[17] The Third Proposed Rule provided that the licensee may exercise its right to cure the deficiencies identified in the auditor's report provided that the licensee ''reimburses'' the participating copyright owners for any audit costs that the licensee is required to pay. *See* 79 FR at 55704. The Final Rule retains this requirement, but clarifies that the license must have ''reimbursed'' the participating copyright owners. While the additional royalties must be deposited with the Office, the Final Rule also clarifies that the audit costs should be paid to a representative of the participating copyright owners.

[18] The Third Proposed Rule provided that the copyright owners must prepare a written notice identifying both the licensee and the statements that they intend to audit, and they must file that notice with the Office in the month of December. The Final Rule retains this requirement but clarifies that the notice must be filed ''on or after December 1st and no later than December 31st.''

licensee has correctly classified the carriage of each signal. *See* CO Second Reply at 9, 10.

At the conclusion of the audit, the participating copyright owners will receive a copy of the auditor's final report. Thus, they will have the benefit of the auditor's findings and analysis, as well as the information that the auditor cites in support of his or her conclusions. Presumably, the participating copyright owners could use this information to identify similar irregularities in the licensee's other statements that may warrant further review—either through an audit process, a negotiated settlement, or appropriate legal action.[19] By contrast, the non-participating copyright owners would not be privy to this information, and would be foreclosed from initiating a separate audit with respect to the SOAs analyzed in the final report. *See* 77 FR at 35649; PS Third Comment at 3.

C. Conclusion of the Audit

Under the Third Proposed Rule, a representative of the participating copyright owners would be required to notify the Office if the auditor discovered an underpayment or overpayment on any of the statements that were reviewed during the audit (although the amounts specified in the auditor's report would not have to be disclosed). The NCTA suggests that it would be more efficient for the auditor to inform the Office that the audit has been completed. NCTA Third Comment at 4. The Office agrees with the NCTA's suggestion and has incorporated it into the Final Rule.

The NCTA also states that there is no need for the auditor to share his findings with the Office. It contends that the auditor should file ''a simple declaration'' confirming that the audit ''has been timely completed,'' but the auditor should not disclose whether he or she discovered an underpayment or overpayment on any of the statements that were reviewed. *Id.* The NCTA correctly notes that any document filed with the Office would become a public record, which means that the notification would be available to other copyright owners even if they declined to participate in the audit. *See id.* The NCTA states that there is no need to share this information with non-participating copyright owners, because the auditor would provide a final report to the participating copyright owner (including the specific amount of any overpayment or underpayment that the auditor discovered). *Id.*

The Office did not include this suggestion in the Final Rule, because there are legitimate reasons for notifying the Office when the auditor discovers an overpayment or an underpayment and for making that information available to the public. Providing this information to the Office will alert both the Office and the copyright owners that did not participate in the audit of the possibility that additional royalty payments or refunds may be forthcoming, thus serving the interests of administrative efficiency. When the Office receives a notice of intent to audit a particular SOA, the Office can hold certain royalties to ensure that funds are available in the event that the licensee subsequently requests a refund. *See* 78 FR at 27146. If the auditor informs the Office that he or she found an overpayment on a particular statement, the Office can anticipate a potential refund request from the licensee. If the licensee fails to request a refund within the time allowed, the Office can release those funds. Conversely, if the auditor informs the Office that he or she found an underpayment on a particular statement, the Office will know that it may receive additional royalty deposits from the licensee.

The NCTA did not explain why this type of information should be withheld from the non-participating copyright owners and the Office can see no legitimate reason for keeping this information from the public. As discussed in section II.B, any party that owns the copyright in a work that was embodied in a secondary transmission made by a licensee that was subject to an audit is entitled to an appropriate share of additional royalties paid to the Office by that licensee—regardless of whether that party decided to participate in the audit. Thus, non-participating copyright owners have a legitimate reason to know if a licensee overpaid or underpaid royalties (or paid the correct amount due).

Moreover, if the auditor discovers an underpayment and the licensee fails to deposit additional royalties with the Office, the non-participating copyright owners should be given an opportunity to consider how to protect their interests. The fact that the auditor discovered an underpayment may suggest that there could be similar problems with the licensee's other statements. In such cases, non-participating copyright owners may be inclined to conduct their own review of additional statements (although as discussed in section II.B they would not have the benefit of the information and analysis set forth in the auditor's final report). They also may be inclined to participate in future audits involving that licensee. Conversely, if the auditor determines that the licensee overpaid or paid the correct amount, the non-participating copyright owners may be inclined to focus their attention elsewhere.

The Final Rule also provides safeguards for licensees by protecting their confidential information.[20] The auditor must inform the Office if he or she discovers an overpayment or underpayment on a particular statement, but the auditor is not required to submit a copy of the final report or disclose the specific amounts reported therein. The auditor must also notify the Office if the licensee contests the auditor's findings but need not submit a copy of the licensee's rebuttal. This additional information will put non-participating copyright owners on notice that a licensee disputes the auditor's findings and may decline to pay the full amount (or any amount) of what the auditor found to be due. But because the auditor will not be submitting non-public financial or business information, such information will not be made public.

D. Retention of Records

Under the Second Proposed Rule a statutory licensee would be required to retain any records needed to confirm the correctness of the calculations and royalty payments reported in an SOA or amended SOA for three and a half years after the last day of the year that the SOA or amendment was filed with the Office. None of the parties objected to this aspect of the proposal.

If an SOA or amended SOA is subject to an audit, then under the Second Proposed Rule, the licensee would be required to retain its records concerning that statement for another three years after the auditor delivered the final report to the parties. In an earlier round of comments, the NCTA contended that this would impose a burden on small cable operators as well as MSOs that file multiple SOAs in each accounting period. NCTA Second Reply at 4. Instead, the NCTA suggested that a licensee should be required to retain its

[19] For example, if the auditor discovered a net aggregate underpayment of more than 5% in an audit involving a multiple system operator (''MSO''), the copyright owners would be entitled to audit a larger sample of the cable systems owned by that entity. The Final Rule preserves this option but clarifies that the copyright owners must conduct a ''new'' initial audit and must notify the Office their intent to conduct ''such'' an audit.

[20] To protect the licensee's interests both during the audit and after it has been completed, the Final Rule clarifies that the parties shall protect the confidentiality of any non-public financial or business information pertaining to an SOA that ''is the subject of an audit.''

records for no more than one year after the auditor issues his or her final report. *Id.*

The Office weighed the NCTA's concerns when it drafted the Third Proposed Rule, but concluded that a three-year retention period would be more appropriate, because it would ensure that the licensee does not discard its records before the three-year statute of limitations may expire. 79 FR at 55708. The Office also stated that it had reached a final decision on this issue. *Id.* at 55697 n.11.

In this third round of comments, the NCTA again urges the Office to reconsider its decision. NCTA Third Comment at 3. The NCTA notes that the Third Proposed Rule would require the auditor to complete his or her review within less than a year, and notes that the Office cited the ''administrative burdens associated with retaining records for extended periods'' as one of the reasons for this requirement. *Id.; see also* 79 FR at 55699. To reduce these burdens even further, the NCTA reiterates that licensees should be required to retain their records for no more than one year after the completion of the audit. NCTA Third Comment at 3. It also contends that the Office should give more weight to the fact that the Joint Stakeholders mutually agreed that a one-year retention period would be sufficient to protect their respective interests. *Id.* at 4.

The Office has considered the NCTA's renewed concerns, and has again concluded that a licensee should retain its records for three years after the auditor issues his or her final report. There is a significant difference between the burdens associated with maintaining records relating to all of the statements that a licensee has filed with the Office, and the burdens associated with maintaining records relating to a statement that has been subject to an audit. The Final Rule limits the number of statements that may be reviewed in an audit (ordinarily two SOAs [21]), which in turn limits the number of records that a particular licensee must retain when the auditor issues his or her final report. Many licensees collect, report, and maintain their records in electronic form, which also mitigates the burden. Moreover, the licensee is only required to keep such records as are ''*necessary* to confirm the correctness of the calculations and royalty payments reported'' in those SOAs (emphasis added).

[21] The Third Proposed Rule provided that an audit of a particular cable system or satellite carrier could include no more than two of the statements filed by that licensee during ''the previous eight accounting periods.'' 79 FR at 55711. If the auditor discovered a net aggregate underpayment of more than 5%, the rule provided that the copyright owners may expand the audit to include ''all previous Statements filed by that [licensee] that may be timely noticed for audit.'' *Id.* The Final Rule maintains this approach, but in the interest of consistency it employs similar language in paragraphs (m)(2) and (n)(1).

List of Subjects in 37 CFR Part 201

Copyright, General provisions.

Final Regulations

For the reasons set forth in the preamble, the U.S. Copyright Office amends 37 CFR part 201, as follows:

PART 201—GENERAL PROVISIONS

■ 1. Revise the authority citation for part 201 to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Revise § 201.16 to read as follows:

§ 201.16 Verification of a Statement of Account for secondary transmissions made by cable systems and satellite carriers.

(a) *General.* This section prescribes procedures pertaining to the verification of a Statement of Account filed with the Copyright Office pursuant to sections 111(d)(1) or 119(b)(1) of title 17 of the United States Code.

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

(1) The term *cable system* has the meaning set forth in § 201.17(b)(2).

(2) *Copyright owner* means any person or entity that owns the copyright in a work embodied in a secondary transmission made by a statutory licensee that filed a Statement of Account with the Copyright Office for an accounting period beginning on or after January 1, 2010, or a designated agent or representative of such person or entity.

(3) *Multiple system operator* or *MSO* means an entity that owns, controls, or operates more than one cable system.

(4) *Net aggregate underpayment* means the aggregate amount of underpayments found by the auditor less the aggregate amount of any overpayments found by the auditor, as measured against the total amount of royalties reflected on the Statements of Account examined by the auditor.

(5) *Participating copyright owner* means a copyright owner that filed a notice of intent to audit a Statement of Account pursuant to paragraph (c)(1) or (2) of this section and any other copyright owner that has given notice of its intent to participate in such audit pursuant to paragraph (c)(3) of this section.

(6) The term *satellite carrier* has the meaning set forth in 17 U.S.C. 119(d)(6).

(7) The term *secondary transmission* has the meaning set forth in 17 U.S.C. 111(f)(2).

(8) *Statement of Account* or *Statement* means a semiannual Statement of Account filed with the Copyright Office under 17 U.S.C. 111(d)(1) or 119(b)(1) or an amended Statement of Account filed with the Office pursuant to §§ 201.11(h) or 201.17(m).

(9) *Statutory licensee* or *licensee* means a cable system or satellite carrier that filed a Statement of Account with the Office under 17 U.S.C. 111(d)(1) or 119(b)(1).

(c) *Notice of intent to audit.* (1) Any copyright owner that intends to audit a Statement of Account for an accounting period beginning on or after January 1, 2010 must provide written notice to the Register of Copyrights no later than three years after the last day of the year in which the Statement was filed with the Office. The notice must be received in the Office on or after December 1st and no later than December 31st, and a copy of the notice must be provided to the statutory licensee on the same day that it is filed with the Office. Between January 1st and January 31st of the next calendar year the Office will publish a notice in the **Federal Register** announcing the receipt of the notice of intent to audit. A notice of intent to audit may be filed by an individual copyright owner or a designated agent that represents a group or multiple groups of copyright owners. The notice shall include a statement indicating that it is a ''notice of intent to audit'' and it shall contain the following information:

(i) It shall identify the licensee that filed the Statement(s) with the Office, and the Statement(s) and accounting period(s) that will be subject to the audit.

(ii) It shall identify the party that filed the notice, including its name, address, telephone number, and email address, and it shall include a statement that the party owns or represents one or more copyright owners that own a work that was embodied in a secondary transmission made by the statutory licensee during one or more of the accounting period(s) specified in the Statement(s) that will be subject to the audit.

(2) Notwithstanding the schedule set forth in paragraph (c)(1) of this section, any copyright owner that intends to audit a Statement of Account pursuant to an expanded audit under paragraph (n) of this section may provide written notice of such to the Register of Copyrights during any month, but no later than three years after the last day of the year in which the Statement was filed with the Office. A copy of the

notice must be provided to the licensee on the same day that the notice is filed with the Office. Within thirty days after the notice has been received, the Office will publish a notice in the **Federal Register** announcing the receipt of the notice of intent to conduct an expanded audit. A notice given pursuant to this paragraph may be provided by an individual copyright owner or a designated agent that represents a group or multiple groups of copyright owners. The notice shall include a statement indicating that it is a ''notice of intent to conduct an expanded audit'' and it shall contain the information specified in paragraphs (c)(1)(i) and (ii) of this section.

(3) Within thirty days after a notice is published in the **Federal Register** pursuant to paragraphs (c)(1) or (2) of this section, any other copyright owner that owns a work that was embodied in a secondary transmission made by that statutory licensee during an accounting period covered by the Statement(s) of Account referenced in the **Federal Register** notice and that wishes to participate in the audit of such Statement(s) must provide written notice of such participation to the Copyright Office as well as to the licensee and party that filed the notice of intent to audit. A notice given pursuant to this paragraph may be provided by an individual copyright owner or a designated agent that represents a group or multiple groups of copyright owners, and shall include the information specified in paragraphs (c)(1)(i) and (ii) of this section.

(4) Notices submitted to the Office under paragraphs (c)(1) through (3) of this section should be addressed to the ''U.S. Copyright Office, Office of the General Counsel'' and should be sent to the address for time-sensitive requests set forth in § 201.1(c)(1).

(5) Once the Office has received a notice of intent to audit a Statement of Account under paragraphs (c)(1) or (2) of this section, a notice of intent to audit that same Statement will not be accepted for publication in the **Federal Register**.

(6) Once the Office has received a notice of intent to audit two Statements of Account filed by a particular satellite carrier or a particular cable system, a notice of intent to audit that same carrier or that same system under paragraph (c)(1) of this section will not be accepted for publication in the **Federal Register** until the following calendar year.

(7) If the Office has received a notice of intent to audit prior to the effective date of this section, the Office will publish a notice in the **Federal Register** within thirty days thereafter announcing the receipt of the notice of intent to audit. In such a case, the audit shall be conducted using the procedures set forth in paragraphs (d) through (l) of this section, with the following exceptions:

(i) The participating copyright owners shall provide the statutory licensee with a list of three independent and qualified auditors pursuant to paragraph (d)(1) by March 16, 2015.

(ii) The auditor shall deliver his or her final report to the participating copyright owners and the licensee pursuant to paragraph (i)(3) of this section by November 1, 2015.

(d) *Selection of the auditor.* (1) Within forty-five days after a notice is published in the **Federal Register** pursuant to paragraph (c)(1) of this section, the participating copyright owners shall provide the statutory licensee with a list of three independent and qualified auditors, along with information reasonably sufficient for the licensee to evaluate the proposed auditors' independence and qualifications, including:

(i) The auditor's *curriculum vitae* and a list of audits that the auditor has conducted pursuant to 17 U.S.C. 111(d)(6) or 119(b)(2);

(ii) A list and, subject to any confidentiality or other legal restrictions, a brief description of any other work the auditor has performed for any of the participating copyright owners during the prior two calendar years;

(iii) A list identifying the participating copyright owners for whom the auditor's firm has been engaged during the prior two calendar years; and,

(iv) A copy of the engagement letter that would govern the auditor's performance of the audit and that provides for the auditor to be compensated on a non-contingent flat fee or hourly basis that does not take into account the results of the audit.

(2) Within five business days after receiving the list of auditors from the participating copyright owners, the licensee shall select one of the proposed auditors and shall notify the participating copyright owners of its selection. That auditor shall be retained by the participating copyright owners and shall conduct the audit on behalf of all copyright owners who own a work that was embodied in a secondary transmission made by the licensee during the accounting period(s) specified in the Statement(s) of Account identified in the notice of intent to audit.

(3) The auditor shall be independent and qualified as defined in this section. An auditor shall be considered independent and qualified if:

(i) He or she is a certified public accountant and a member in good standing with the American Institute of Certified Public Accountants (''AICPA'') and the licensing authority for the jurisdiction(s) where the auditor is licensed to practice;

(ii) He or she is not, for any purpose other than the audit, an officer, employee, or agent of any participating copyright owner;

(iii) He or she is independent as that term is used in the Code of Professional Conduct of the AICPA, including the Principles, Rules, and Interpretations of such Code; and

(iv) He or she is independent as that term is used in the Statements on Auditing Standards promulgated by the Auditing Standards Board of the AICPA and Interpretations thereof issued by the Auditing Standards Division of the AICPA.

(e) *Commencement of the audit.* (1) Within ten days after the selection of the auditor, the auditor shall meet by telephone or in person with designated representatives of the participating copyright owners and the statutory licensee to review the scope of the audit, audit methodology, applicable auditing standard, and schedule for conducting and completing the audit.

(2) Within thirty days after the selection of the auditor, the licensee shall provide the auditor and a representative of the participating copyright owners with a list of all broadcast signals retransmitted pursuant to the statutory license in each community covered by each of the Statements of Account subject to the audit, including the call sign for each broadcast signal and each multicast signal. In the case of an audit involving a cable system or MSO, the list must include the classification of each signal on a community-by-community basis pursuant to § 201.17(e)(9)(iv) through (v) and 201.17(h). The list shall be signed by a duly authorized agent of the licensee and the signature shall be accompanied by the following statement ''I, the undersigned agent of the statutory licensee, hereby declare under penalty of law that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.''

(f) *Failure to proceed with a noticed audit.* If the participating copyright owners fail to provide the statutory licensee with a list of auditors or fail to retain the auditor selected by the licensee pursuant to paragraph (d)(2) of this section, the Statement(s) of Account

identified in the notice of intent to audit shall not be subject to audit under this section.

(g) *Ex parte communications.* Following the initial consultation pursuant to paragraph (e)(1) of this section and until the distribution of the auditor's final report to the participating copyright owners pursuant to paragraph (i)(3) of this section, there shall be no *ex parte* communications regarding the audit between the auditor and the participating copyright owners or their representatives; provided, however, that the auditor may engage in such *ex parte* communications where either:

(1) Subject to paragraph (i)(4) of this section, the auditor has a reasonable basis to suspect fraud and that participation by the licensee in communications regarding the suspected fraud would, in the reasonable opinion of the auditor, prejudice the investigation of such suspected fraud; or

(2) The auditor provides the licensee with a reasonable opportunity to participate in communications with the participating copyright owners or their representatives and the licensee declines to do so.

(h) *Auditor's authority and access.* (1) The auditor shall have exclusive authority to verify all of the information reported on the Statement(s) of Account subject to the audit in order to confirm the correctness of the calculations and royalty payments reported therein; provided, however, that the auditor shall not determine whether any cable system properly classified any broadcast signal as required by § 201.17(e)(9)(iv) through (v) and 201.17(h) or whether a satellite carrier properly determined that any subscriber or group of subscribers is eligible to receive any broadcast signals under 17 U.S.C. 119(a).

(2) The statutory licensee shall provide the auditor with reasonable access to the licensee's books and records and any other information that the auditor needs in order to conduct the audit. The licensee shall provide the auditor with any information the auditor reasonably requests promptly after receiving such a request.

(3) The audit shall be conducted during regular business hours at a location designated by the licensee with consideration given to minimizing the costs and burdens associated with the audit. If the auditor and the licensee agree, the audit may be conducted in whole or in part by means of electronic communication.

(4) With the exception of its obligations under paragraphs (d) and (e) of this section, a licensee may suspend its participation in an audit for no more than sixty days before the semi-annual due dates for filing Statements of Account by providing advance written notice to the auditor and a representative of the participating copyright owners, provided however, that if the participating copyright owners notify the licensee within ten days of receiving such notice of their good-faith belief that the suspension could prevent the auditor from delivering his or her final report to the participating copyright owners before the statute of limitations may expire on any claims under the Copyright Act related to a Statement of Account covered by that audit, the licensee may not suspend its participation in the audit unless it first executes a tolling agreement to extend the statute of limitations by a period of time equal to the period of the suspension.

(i) *Audit report.* (1) After reviewing the books, records, and any other information received from the statutory licensee, the auditor shall prepare a draft written report setting forth his or her initial conclusions and shall deliver a copy of that draft report to the licensee. The auditor shall then consult with a representative of the licensee regarding the conclusions set forth in the draft report for up to thirty days. If, upon consulting with the licensee, the auditor concludes that there are errors in the facts or conclusions set forth in the draft report, the auditor shall correct those errors.

(2) Within thirty days after the date that the auditor delivered the draft report to the licensee pursuant to paragraph (i)(1) of this section, the auditor shall prepare a final version of the written report setting forth his or her ultimate conclusions and shall deliver a copy of that final version to the licensee. Within fourteen days thereafter, the licensee may provide the auditor with a written rebuttal setting forth its good faith objections to the facts or conclusions set forth in the final version of the report.

(3) Subject to the confidentiality provisions set forth in paragraph (l) of this section, the auditor shall attach a copy of any written rebuttal timely received from the licensee to the final version of the report and shall deliver a copy of the complete final report to the participating copyright owners and the licensee. The final report must be delivered by November 1st of the year in which the notice was published in the **Federal Register** pursuant to paragraph (c)(1) of this section and within five business days after the last day on which the licensee may provide the auditor with a written rebuttal pursuant to paragraph (i)(2) of this section. Upon delivery of the complete and final report, the auditor shall notify the Office that the audit has been completed. The notice to the Office shall specify the date that the auditor delivered the final report to the parties; whether, with respect to each statement examined, the auditor has discovered any underpayment or overpayment; and whether the auditor has received a written rebuttal from the licensee. The notice should be addressed to the ''U.S. Copyright Office, Office of the General Counsel'' and should be sent to the address for time-sensitive requests specified in § 201.1(c)(1).

(4) Prior to the delivery of the final report pursuant to paragraph (i)(3) of this section the auditor shall not provide any draft of his or her report to the participating copyright owners or their representatives; provided, however, that the auditor may deliver a draft report simultaneously to the licensee and the participating copyright owners if the auditor has a reasonable basis to suspect fraud.

(j) *Corrections, supplemental payments, and refunds.* (1) If the auditor concludes in his or her final report that any of the information reported on a Statement of Account is incorrect or incomplete, that the calculation of the royalty fee payable for a particular accounting period was incorrect, or that the amount deposited in the Office for that period was too low, a statutory licensee may cure such incorrect or incomplete information or underpayment by filing an amendment to the Statement and, in case of a deficiency in payment, by depositing supplemental royalty fee payments with the Office using the procedures set forth in §§ 201.11(h) or 201.17(m); provided, however, that the amendment and/or payments are received within sixty days after the delivery of the final report to the participating copyright owners and the licensee or in the case of an audit of an MSO, within ninety days after the delivery of such report; and further provided that the licensee has reimbursed the participating copyright owners for the licensee's share of the audit costs, if any, determined to be owing pursuant to paragraph (k)(3) of this section. While reimbursement of audit costs shall be paid to a representative of the participating copyright owners, supplemental royalty fee payments made pursuant to this paragraph shall be delivered to the Office and not to the participating copyright owners or their representatives.

(2) Notwithstanding §§ 201.11(h)(3)(i) and 201.17(m)(4)(i), if the auditor

concludes in his or her final report that there was an overpayment on a particular Statement, the licensee may request a refund from the Office using the procedures set forth in §§ 201.11(h)(3) or 201.17(m)(4), provided that the request is received within sixty days after the delivery of the final report to the participating copyright owners and the licensee or within ninety days after the delivery of the final report in the case of an audit of an MSO.

(k) *Costs of the audit.* (1) No later than the fifteenth day of each month during the course of the audit, the auditor shall provide the participating copyright owners with an itemized statement of the costs incurred by the auditor during the previous month, and shall provide a copy to the licensee that is the subject of the audit.

(2) If the auditor concludes in his or her final report that there was no net aggregate underpayment or a net aggregate underpayment of five percent or less, the participating copyright owners shall pay for the full costs of the auditor. If the auditor concludes in his or her final report that there was a net aggregate underpayment of more than five percent but less than ten percent, the costs of the auditor are to be split evenly between the participating copyright owners and the licensee that is the subject of the audit. If the auditor concludes in his or her final report that there was a net aggregate underpayment of ten percent or more, the licensee will be responsible for the full costs of the auditor.

(3) If a licensee is responsible for any portion of the costs of the auditor, a representative of the participating copyright owners shall provide the licensee with an itemized accounting of the auditor's total costs, the appropriate share of which should be paid by the licensee to such representative no later than sixty days after the delivery of the final report to the participating copyright owners and licensee or within ninety days after the delivery of such report in the case of an audit of an MSO.

(4) Notwithstanding anything to the contrary in paragraph (k) of this section, no portion of the auditor's costs that exceed the amount of the net aggregate underpayment may be recovered from the licensee.

(l) *Confidentiality.* (1) For purposes of this section, confidential information shall include any non-public financial or business information pertaining to a Statement of Account that is the subject of an audit under 17 U.S.C. 111(d)(6) or 119(b)(2).

(2) Access to confidential information under this section shall be limited to:

(i) The auditor; and

(ii) Subject to the execution of a reasonable confidentiality agreement, outside counsel for the participating copyright owners and any third party consultants retained by outside counsel, and any employees, agents, consultants, or independent contractors of the auditor who are not employees, officers, or agents of a participating copyright owner for any purpose other than the audit, who are engaged in the audit of a Statement or activities directly related hereto, and who require access to the confidential information for the purpose of performing such duties during the ordinary course of their employment.

(3) The auditor and any person identified in paragraph (l)(2)(ii) of this section shall implement procedures to safeguard all confidential information received from any third party in connection with an audit, using a reasonable standard of care, but no less than the same degree of security used to protect confidential financial and business information or similarly sensitive information belonging to the auditor or such person.

(m) *Frequency and scope of the audit.* (1) Except as provided in paragraph (n)(2) of this section with respect to expanded audits, a cable system, MSO, or satellite carrier shall be subject to no more than one audit per calendar year.

(2) Except as provided in paragraph (n)(1) of this section, the audit of a particular cable system or satellite carrier shall include no more than two of the Statements of Account filed by that cable system or satellite carrier that may be timely noticed for audit under paragraph (c)(1) of this section.

(3) Except as provided in paragraph (n)(3)(ii) of this section, an audit of an MSO shall be limited to a sample of no more than ten percent of the MSO's Form 3 cable systems and no more than ten percent of the MSO's Form 2 systems.

(n) *Expanded audits.* (1) If the auditor concludes in his or her final report that there was a net aggregate underpayment of five percent or more on the Statements of Account examined in an initial audit involving a cable system or satellite carrier, a copyright owner may expand the audit to include all previous Statements filed by that cable system or satellite carrier that may be timely noticed for audit under paragraph (c)(2) of this section. The expanded audit shall be conducted using the procedures set forth in paragraphs (d) through (l) of this section, with the following exceptions:

(i) The expanded audit may be conducted by the same auditor that performed the initial audit, provided that the participating copyright owners provide the licensee with updated information reasonably sufficient to allow the licensee to determine that there has been no material change in the auditor's independence and qualifications. In the alternative, the expanded audit may be conducted by an auditor selected by the licensee using the procedure set forth in paragraph (d) of this section.

(ii) The auditor shall deliver his or her final report to the participating copyright owners and the licensee within five business days following the last day on which the licensee may provide the auditor with a written rebuttal pursuant to paragraph (i)(2) of this section, but shall not be required to deliver the report by November 1st of the year in which the notice was published in the **Federal Register** pursuant to paragraph (c) of this section.

(2) An expanded audit of a cable system or a satellite carrier that is conducted pursuant to paragraph (n)(1) of this section may be conducted concurrently with another audit involving that same licensee.

(3) If the auditor concludes in his or her final report that there was a net aggregate underpayment of five percent or more on the Statements of Account examined in an initial audit involving an MSO:

(i) The cable systems included in the initial audit of that MSO shall be subject to an expanded audit in accordance with paragraph (n)(1) of this section; and

(ii) The MSO shall be subject to a new initial audit involving a sample of no more than thirty percent of its Form 3 cable systems and no more than thirty percent of its Form 2 cable systems, provided that the notice of intent to conduct that audit is filed in the same calendar year as the delivery of such final report.

(o) *Retention of records.* For each Statement of Account or amended Statement that a statutory licensee files with the Office for accounting periods beginning on or after January 1, 2010, the licensee shall maintain all records necessary to confirm the correctness of the calculations and royalty payments reported in each Statement or amended Statement for at least three and one-half years after the last day of the year in which that Statement or amended Statement was filed with the Office and, in the event that such Statement or amended Statement is the subject of an audit conducted pursuant to this section, shall continue to maintain those records until three years after the auditor delivers the final report to the participating copyright owners and the

licensee pursuant to paragraph (i)(3) of this section.

§ 201.17 [Amended]

■ 3. Amend § 201.17 as follows:

■ a. In paragraphs (m)(2) introductory text and (m)(4)(i) by removing ''(m)(3)'' and adding in its place ''(m)(4)''.

■ b. In paragraphs (m)(2)(ii), (m)(4)(iii)(C), and (m)(4)(iv)(A) by removing ''(m)(1)(iii)'' and adding in its place ''(m)(2)(iii)''.

■ c. In paragraph (m)(4) introductory text by removing ''(m)(1)'' and adding in its place ''(m)(2)''.

■ d. In paragraph (m)(4)(iii)(A) by removing ''(m)(1)(i)'' and adding in its place ''(m)(2)(i)''.

■ e. In paragraph (m)(4)(iii)(B) by removing ''(m)(1)(ii)'' and adding in its place ''(m)(2)(ii)''.

■ f. In paragraph (m)(4)(vi) by removing ''(m)(3)(i)'' and adding in its place ''(m)(4)(i)''.

Dated: November 10, 2014.

Maria A. Pallante,

Register of Copyrights and Director of the U.S. Copyright Office.

James H. Billington,

Librarian of Congress.

[FR Doc. 2014–27277 Filed 11–17–14; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 13–184; FCC 14–99]

Modernization of the Schools and Libraries ''E-Rate'' Program

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction; correcting amendments.

SUMMARY: This document corrects errors in the dates section, the supplementary information portion, and Final Rules section of a **Federal Register** document regarding the Commission taking major steps to modernize the E-rate program (more formally known as the schools and libraries universal service support mechanism). Building on the comments the Commission received in response to the E-rate Modernization NPRM, and the E-rate Modernization Public Notice, as well as recommendations from the Government Accountability Office (GAO), the program improvements the Commission adopts as part of this document begin the process of reorienting the E-rate program to focus on high-speed broadband for our nation's schools and libraries. The document was published in the **Federal Register** on August 19, 2014.

DATES: The corrections and correcting amendments in this rule are effective November 18, 2014, except that correcting amendments 3 and 5 are effective July 1, 2015.

FOR FURTHER INFORMATION CONTACT: James Bachtell or Kate Dumouchel, Wireline Competition Bureau, Telecommunications Access Policy Division, at (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This summary contains corrections to the **DATES** section, the **SUPPLEMENTARY INFORMATION** portion, and the Final Rules section of a **Federal Register** summary, 79 FR 49160 (August 19, 2014). The full text of the Commission's Report and Order in WC Docket No. 13–184, FCC 14–99 released on July 23, 2014 is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street SW., Washington, DC 20554.

Corrections to Final Rule

In rule FR Doc. 2014–18937 published August 19, 2014 (79 FR 49160) make the following corrections.

1. On page 49160, in the first column, correct the effective dates in the **DATES** section as follows:

Section	Correct . . .	To read . . .
54.503(c)	Upon announcement of OMB approval of information collection requirements.	December 18, 2014.
54.504(f)	Upon announcement of OMB approval of information collection requirements.	54.504(f)(4)–(5) will become effective July 1, 2016.
54.507(d)	Upon announcement of OMB approval of information collection requirements.	December 18, 2014.
54.507(f)	July 1, 2015	December 18, 2014.
54.514(a)	Upon announcement of OMB approval of information collection requirements.	December 18, 2014.
54.516(a)–(c), (d)	July 1, 2015	54.516 is effective on July 1, 2015, with the exception of paragraphs (a)–(c) which are effective upon announcement of OMB approval of information collection requirements.
54.720(a)	Upon announcement of OMB approval of information collection requirements.	December 18, 2014.

2. On page 49161, in the second column, in paragraph 7, in the last sentence add the words '', we continue the Commission's commitment to meeting schools' and libraries' connectivity needs'' after the word ''connections''.

3. On page 49168, in the second column, in paragraph 66, eleventh line, remove the comma after the word ''services.''

4. On page 49168, in the third column, in paragraph 71, twenty-seventh line, remove the word ''supports'' and add in its place the word ''supported.''

5. On page 49169, in the second column, in paragraph 74, twenty-third line, remove the words ''subsequent five funding years'' and add in their place the words ''subsequent four funding years.''

6. On page 49169, in the second column, in paragraph 76, fifth line, add the word ''do'' after the words ''five-year budgets.''

7. On page 49171, in the third column, in paragraph 95, third line, remove the word ''and'' and add it its place the words ''and/or.''

8. On page 49172, in the first column, in paragraph 95, second line, correct the first full sentence to read ''In other

words, for schools in districts receiving funding in years 2015 and/or 2016, we adopt a rolling funding cycle of five years for category two services, which begins the first year that a school receives E-rate support, and remove the two-in-five rule that applied to priority two internal connections.''

9. On page 49172, in the first column, in paragraph 95, correct the third full sentence to read ''Therefore, schools that seek category two support in funding year 2015 will calculate their available pre-discount support budget as $150 per student over five years beginning with funding year 2015.'', and correct the fourth full sentence to read ''Schools that seek category two support in funding year 2016 will calculate their available pre-discount support budget as $150 per student, less any of the five year pre-discount budget used in funding year 2015.'', and correct the fifth full sentence to read ''In later years, schools that received category two support in funding years 2015 and/or 2016 will calculate their available pre-discount budget based on $150 per student, less any of the pre-discount budget used in the prior funding years that are part of that school's five year funding cycle.''

10. On page 49174, in the second column, in paragraph 113, in the first sentence, first line, remove the word ''Under'' and add in its place the words ''For example, under.''

11. On page 49176, in the second column, in paragraph 128, in the second sentence, eleventh line, remove the words ''sufficient funding for is available'' and add in their place the words ''sufficient funding is available.''

12. On page 49176, in the third column, in paragraph 128, in the penultimate sentence, eleventh line, add the word ''will'' after the word ''We.''

13. On page 49178, in the first column, in paragraph 139, twelfth line, remove the words ''on-campus use.''

14. On page 49179, in the first column, in paragraph 148, in the last sentence, thirtieth line, remove the word ''APIs'' and add in its place the words ''application programming interfaces (APIs).''

15. On page 49181, in the second column, in paragraph 168, correct the third full sentence to read ''To show that it is authorized to seek or order eligible services for the applicants, a consortium lead may provide copies of relevant state statutes or regulations authorizing consortium leads to seek or order services on members' behalf or other proof that a consortium lead is authorized to seek or order services on behalf of its members.''

16. On page 49186, in the first column, in paragraph 202, in the first sentence, fifth line, remove the words ''discount rate'' and add in their place the words ''NSLP level of poverty.''

17. On page 49186, correct paragraph 205 to read ''In light of the benefits to school districts and libraries of adopting a district-wide discount, we revise § 54.505(b)(4) of our rules to require school districts to calculate their E-rate discounts by:

dividing the total number of students in the district eligible for the NSLP by the total number of students in the district and comparing that single figure against the discount matrix to determine the school district's discount rate for E-rate supported services. All public schools and libraries within that public school district will receive the same discount rate, except under the circumstances described below. First, for the sake of simplicity, when a library system has branches or outlets in more than one public school district, that library system and all library outlets within that system should use the address of the central outlet or main administrative office to determine which public school district the library system is in, and should use that public school district's NSLP level of poverty to determine its discount rate whether applying as a library system or as one or more individual library outlets within that system. Second, library systems, and individual libraries that are not part of a library system, must separately determine their urban/rural status. All outlets within a library system receive the same discount rate.''

18. On page 49187, in the first column, in paragraph 210, fifth line, remove the word ''(Census)'' and add in its place the words ''(Census Bureau).''

19. On page 49187, in the first column, in paragraph 210, in the third sentence, nineteenth line, add the word ''Bureau'' after the word ''Census.''

20. On page 49187, in the first column, in paragraph 210, in the fifth sentence, twenty-eighth line, add the word ''Bureau'' after the word ''Census.''

21. On page 49187, in the first column, in paragraph 210, in the sixth sentence, thirty-fourth line, add the word ''Bureau'' after the word ''Census.''

22. On page 49187, in the first column, in paragraph 211, in the second sentence, third line, add the word ''Bureau'' after the word ''Census.''

23. On page 49187, in the first column, in paragraph 211, in the third sentence, sixth line, add the word ''Bureau'' after the word ''Census.''

24. On page 49187, in the first column, in paragraph 211, in the fourth sentence, remove the words ''2010 Census'' and add in their place the words ''2010 decennial census,'' add the words ''for urbanized areas and 2,500 to 50,000 for urban clusters'' after the word ''more,'' and remove the words ''of at least 2,500 people that link to'' and add in their place the words ''containing non-residential urban land uses as well as territory with low population density included to link outlying densely settled territory with.''

25. On page 49187, in the first column, in paragraph 211, in the sixth sentence, twenty-fifth line, remove the word ''Census'' and add in its place the word ''census.''

26. On page 49187, in the second column, in paragraph 213, remove the words in the fourth sentence ''Libraries' discount percentages will continue to be based on that of the public school district in which they are physically located.'' and add in their place the words ''Libraries' discount percentages will continue to be based on the level of poverty, CEP or otherwise, of the public school district in which they are physically located, though library systems and individual libraries not part of a library system will separately determine their urban/rural status.''

27. On page 49188, in the second column, in paragraph 218, nineteenth line, add the word ''on'' before the words ''only the surveys returned.''

28. On page 49197, in the first and second columns, correct paragraph 306 to read ''It is further ordered, that pursuant to the authority contained in sections 1 through 4, 201 through 205, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 254, 303(r), and 403, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 1302, Part 54 of the Commission's rules, 47 CFR part 54, is Amended as set forth below, and such rule amendments shall be effective September 18, 2014, except for §§ 54.503(c), 54.507(d) through (f), 54.514(a), and 54.720(a), which shall be effective December 18, 2014; §§ 54.502(b)(2) through (3) and (5), 54.504(a), and 54.516(a) through (c), which are subject to the PRA and will become effective upon announcement in the **Federal Register** of OMB approval of the subject information collection requirements; and except for amendments in §§ 54.5, 54.500, 54.501(a)(1), 54.502(a), 54.504(d), 54.507(a) through (c) and (e), and 54.516(d), which shall become effective on July 1, 2015; and amendments in §§ 54.504(f)(4) and (f)(5) and 54.514(c),

which shall become effective on July 1, 2016.''

Section 54.500 [Corrected]

29. On page 49197, in the Final Rules section, in the third column, in the definition of Consortium in § 54.500, correct the second sentence to read ''A consortium may also include health care providers eligible under subpart G of this part, and public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, although such entities are not eligible for support.''

30. On page 49198, in the Final Rules section, in the first column, in the definition of Managed internal broadband services in § 54.500, remove the words ''management, and/or monitoring'' and add in their place the words ''management, and monitoring'' and remove the words ''local area network (LAN) and wireless LAN'' and add in their place the words ''local area network (LAN) and/or wireless LAN.''

Section 54.501 [Corrected]

31. On page 49198, in the Final Rules section, in the first column, in paragraph (a)(1) of § 54.501, remove the words '' ''elementary school'' and ''secondary school'' '' and add in their place the words '' ''elementary school'' or ''secondary school'' ''.

Section 54.502 [Corrected]

32. On page 49198, in the Final Rules section, in the first column, in paragraph (a) of § 54.502, remove the words ''paragraph (b)'' and add in their place the words ''paragraph (d).''

Correcting Amendments

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Accordingly, 47 CFR part 54 is corrected by making the following correcting amendments:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: Sections 1, 4(i), 5, 201, 205, 214, 219, 220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Communications Act of 1996, as amended; 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

■ 2. Effective November 18, 2014, amend § 54.5 by revising the definition of ''Internet access'' to read as follows:

§ 54.5 Terms and definitions.

* * * * *

Internet access. ''Internet access'' includes the following elements:

(1) The transmission of information as common carriage;

(2) The transmission of information as part of a gateway to an information service, when that transmission does not involve the generation or alteration of the content of information, but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services, and that do not affect the presentation of such information to users; and

(3) Electronic mail services (email).

■ 3. Effective July 1, 2015, amend § 54.5 by revising the definition of ''Internet access'' to read as follows:

§ 54.5 Terms and definitions.

* * * * *

Internet access. ''Internet access'' includes the following elements:

(1) The transmission of information as common carriage; and

(2) The transmission of information as part of a gateway to an information service, when that transmission does not involve the generation or alteration of the content of information, but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services, and that do not affect the presentation of such information to users.

* * * * *

■ 4. Effective November 18, 2014, amend § 54.504 by revising paragraph (d) to read as follows:

§ 54.504 Requests for services.

* * * * *

(d) *Service substitution.* (1) The Administrator shall grant a request by an applicant to substitute a service or product for one identified on its FCC Form 471 where:

(i) The service or product has the same functionality;

(ii) The substitution does not violate any contract provisions or state or local procurement laws;

(iii) The substitution does not result in an increase in the percentage of ineligible services or functions; and

(iv) The applicant certifies that the requested change is within the scope of the controlling FCC Form 470, including any associated Requests for Proposal, for the original services.

(2) In the event that a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service.

(3) For purposes of this rule, the broad categories of eligible services (telecommunications service, Internet access, and internal connections) are not deemed to have the same functionality with one another.

■ 5. Effective July 1, 2015, amend § 54.504 by revising paragraph (d) to read as follows:

§ 54.504 Requests for services.

* * * * *

(d) *Service substitution.* (1) The Administrator shall grant a request by an applicant to substitute a service or product for one identified on its FCC Form 471 where:

(i) The service or product has the same functionality;

(ii) The substitution does not violate any contract provisions or state or local procurement laws;

(iii) The substitution does not result in an increase in the percentage of ineligible services or functions; and

(iv) The applicant certifies that the requested change is within the scope of the controlling FCC Form 470, including any associated Requests for Proposal, for the original services.

(2) In the event that a service substitution results in a change in the pre-discount price for the supported service, support shall be based on the lower of either the pre-discount price of the service for which support was originally requested or the pre-discount price of the new, substituted service.

(3) For purposes of this rule, the two categories of eligible services are not deemed to have the same functionality as one another.

■ 6. In § 54.505:

■ a. Revise paragraph (b)(2).

■ b. In paragraph (b)(3)(i), remove the word ''urbanized'' and add in its place the word ''urban''.

The revision reads as follows:

§ 54.505 Discounts.

* * * * *

(b) * * *

(2) For libraries and library consortia, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved

alternative mechanism in the public school district in which they are located and should use that school district's level of poverty to determine their discount rate when applying as a library system or as an individual library outlet within that system. When a library system has branches or outlets in more than one public school district, that library system and all library outlets within that system should use the address of the central outlet or main administrative office to determine which school district the library system is in, and should use that school district's level of poverty to determine its discount rate when applying as a library system or as one or more library outlets. If the library is not in a school district, then its level of poverty shall be based on an average of the percentage of students eligible for the national school lunch program in each of the school districts that children living in the library's location attend.

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–25523 Filed 11–17–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 219

Defense Federal Acquisition Regulation Supplement; Technical Amendments

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

ACTION: Final rule.

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

DATES: Effective November 18, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6088; facsimile 571–372–6094.

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

1. Corrects paragraph designation at 219.201.

List of Subjects in 48 CFR Part 219

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 219 is amended as follows:

PART 219—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for 48 CFR part 219 continues to read as follows:

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

219.201 [Amended]

■ 2. Amend section 219.201 by—

■ a. In paragraph (c)(10)(A), removing ''PGI 219.201(d)(10)'' and adding ''PGI 219.201(c)(10)'' in its place; and

■ b. In paragraph (d), removing ''PGI 219.201(e)'' and adding ''PGI 219.201(d)'' in its place.

[FR Doc. 2014–27254 Filed 11–17–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD626

Fisheries of the Exclusive Economic Zone Off Alaska; Thornyhead Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of thornyhead rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2014 total allowable catch of thornyhead rockfish in the Western Regulatory Area of the GOA will be reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), November 13, 2014, through 2400 hours, A.l.t., December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2014 total allowable catch (TAC) of thornyhead rockfish in the Western Regulatory Area of the GOA is 235 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2014 TAC of thornyhead rockfish in the Western Regulatory Area of the GOA will be reached. Therefore, NMFS is requiring that thornyhead rockfish caught in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of thornyhead rockfish in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 12, 2014.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: November 13, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–27276 Filed 11–13–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 222
Tuesday, November 18, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1212

[Document Number AMS–FV–14–0045]

Honey Packers and Importers Research, Promotion, Consumer Education and Information Order; Assessment Rate Increase

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on amending the Honey Packers and Importers Research, Promotion, Consumer Education and Information Order (Order) to increase the assessment rate from $0.01 per pound to $0.015 per pound on honey and honey products, over a two-year period. The Order limits an increase in the assessment rate to no more than one-quarter cent per year. Thus, the rate would increase to $0.0125 per pound for the period January 1 through December 31, 2015, and to $0.015 per pound on and after January 1, 2016. The Order is administered by the Honey Packers and Importers Board (Board) with oversight by the U.S. Department of Agriculture (USDA). Under the program, assessments are collected from first handlers (packers) and importers and used for research and promotion projects designed to maintain and expand the market for honey and honey products in the United States and abroad. Additional funds would allow the Board to expand its production research activities and promotional efforts. The Boards production research focuses on maintaining the health of honey bee colonies. Increasing demand for honey and honey products would benefit the honey industry as a whole. This action also makes three additional changes to: Clarify that the assessment rate applies not only to the Harmonized Tariff Schedule numbers but to any other numbers used to identify honey; change the length of time that books and records are to be held; and change the exemption requirements.

DATES: Comments must be received by December 18, 2014.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments may be submitted on the Internet at: *http://www.regulations.gov* or to the Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection, including name and address, if provided, in the above office during regular business hours or it can be viewed at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Promotion Division and Economics, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (301) 334–2891; or electronic mail: *Patricia.Petrella@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under the Order (7 CFR part 1212). The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act, a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

This proposed rule invites comments on amending the Order to increase the assessment rate from $0.01 to $0.015 per pound on honey and honey products over a two-year period. The Order limits an increase in the assessment rate to no more than one-quarter cent per year. Thus, the rate would increase to $0.0125 per pound for the period January 1 through December 31, 2015, and to $0.015 per pound on and after January 1, 2016. The Order is administered by

the Board with oversight by USDA. Under the program, assessments are collected from first handlers and importers and used for research and promotion projects designed to maintain and expand the market for honey and honey products in the United States and abroad. Additional funds would enable the Board to expand its production research activities and promotional efforts. The Board's production research focuses on maintaining the health of honey bee colonies. Promotional efforts focus on the innovative ways to market, promote, and utilize honey and honey products. Increasing demand for honey and honey products would benefit the honey industry as a whole. This action was unanimously recommended by the Board.

The Order specifies that the funds to cover the Board's expenses shall be paid from assessments on first handlers and importers, donations from persons not subject to assessments, and from other funds available to the Board. First handlers are required to file reports and maintain records on the total quantity of honey and honey products acquired during the reporting period, the quantity of honey processed for sale from the handler's own production, and the quantity of honey purchased from a handler or importer responsible for paying the assessment due. Importers are required to report the total quantity of honey and honey products imported during each reporting period, and keep a record of each lot of honey and honey products imported during such period, including the quantity, date, country of origin, and port of entry. Importers are responsible for paying assessments to the Board on honey and honey products imported into the United States through the U.S. Customs and Border Protection (Customs). The Order also provides for two exemptions. First handlers who handle less than 250,000 pounds and importers who import less than 250,000 pounds of honey and honey products annually, and first handlers and importers of 100 percent organic honey and honey products are exempt from the payment of assessments.

Section 1212.52 of the Order specifies that assessments shall be levied at a rate of $0.01 per pound on all honey and honey products. The Board may recommend to the Secretary an increase or decrease in the assessment as it deems appropriate by at least a two-thirds vote of members present at a meeting of the Board. The Board may not recommend an increase in the assessment of more than $0.02 per pound of honey or honey products and may not increase the assessment by more than $0.0025 in any single fiscal year.

The $0.01 per pound assessment rate has been in effect since the Order's inception in 2008. The Board's fiscal year runs from January 1 through December 31. Board expenditures have ranged from $4,157,250 for its first full year in 2009 to $4,556,490 in 2013. Expenditures for research have ranged from $465,579 in 2009 (11 percent of total expenses) to $231,234 in 2013 (5 percent of total expenses). Board expenditures for health messaging and promotion activities have ranged from $2,311,370 in 2009 (56 percent of total expenses) to $2,859,743 in 2013 (63 percent of total expenses). Pursuant to section 1212.50(h) of the Order, administrative expenditures have been less than 15 percent of total expenses annually.

Board assessment income has ranged from $3,345,543 in 2009 ($2,085,204 in domestic assessments and $1,260,339 in import assessments) to $4,443,798 in 2013 ($1,122,390 in domestic assessments and $3,321,408 in import assessments). Additionally, pursuant to section 1212.54 of the Order, the Board maintains a monetary reserve with funds that do not exceed one fiscal period's budget.

Board 2013 Recommendation

The Board held a teleconference on January 23, 2014, and unanimously recommended increasing its assessment rate from $0.01 to $0.015 per pound on honey and honey products over a two-year period. The Order limits an increase in the assessment rate to no more than one-quarter cent per year. Thus, the rate would increase to $0.0125 per pound for the period January 1 through December 31, 2015, and to $0.015 per pound on and after January 1, 2016. Additional funds would enable the Board to expand its production research activities and promotional efforts. Since the program's inception, the Board has funded several production research projects focused on maintaining the health of honey bee colonies. The honey industry continues to experience considerable production challenges associated with the Colony Collapse Disorder. The honey industry has attempted to halt the long term decline in the numbers of honeybees (over 30 percent in the past twenty years) through treatment, colony development, maintenance, and replacement. The funds generated by an assessment increase would be spent on conducting research activities designed to address these critical issues. Per section 1212.50(a) of the Order, five percent (5 percent) of the Board's anticipated revenue from assessments each fiscal period is to be allocated towards production research and research related to the production of honey. A possible one to two million dollar increase in assessment revenue would generate an additional $50,000 to $100,000 for production research. Furthermore, the Board also conducts research relating to various health and beauty issues, including alternative uses for honey. However, most of these preliminary findings have been done under laboratory conditions. Additional funds would allow the Board to incorporate specific areas of research into expanded clinical (human) trials. Clinical trials are important for the industry to be able to make health claims consistent with Federal Trade Commission and Food and Drug Administration requirements.

The Board uses health information in its promotion messaging to help build demand for honey and honey products. Worldwide honey production has grown from 357 million pounds in 2009 to 487 million pounds in 2013. Increasing demand would help move the growing supply of honey, which in turn would assist the Board in reaching its goal to continually increase consumption among existing honey and honey product consumers and to attract new honey and honey product users.

At the proposed increased assessment rate on honey and honey products, with assessable pounds averaging 450 million per year, assessment income could reach $5.6 million in 2015 and $6.8 million in 2016. This increase could be used for research and promotion projects designed to maintain and expand the market for honey and honey products in the United States and abroad. As an example, if 5 percent of the budget was allocated to production research and 60 percent was allocated to promotion, funds available for production research could average approximately $340,000 annually, up from $231,234 in 2013, and funds available for health messaging and promotion could average $4 million annually, up from $2.8 million in 2013.

In light of the need to allocate more funds towards production and health research activities and build demand for honey, the Board recommended increasing the assessment rate under the Order from $0.01 to $0.015 per pound on honey and honey products over a two-year period. The Order limits an increase in the assessment rate to no more than one-quarter cent per year. Thus, the rate would increase to $0.0125 per pound for the period January 1 through December 31, 2015, and to $0.015 per pound on and after January

1, 2016. Section 1212.52 of the Order is proposed to be amended accordingly. Paragraph (e) of section 1212.52 would also be revised to clarify that the assessment rate applies not only to the listed Harmonized Tariff Schedule of the United States (HTSUS) numbers, but also any other numbers that may be used to identify honey or honey products in the event the HTSUS numbers change; this change has no impact on the assessment rate.

The Board also proposed changes for two additional sections of the Order. Section 1212.71 of the Order would be revised to change the length of time that books and records are to be held from two years to three years. This change is proposed to conform with the Board's compliance procedures, which provides that the Board conduct audit reviews every three years. Section 1212.53 of the Order would be revised to state that exemptions from assessments for a calendar year are effective on the date approved by the Board. This change is being made to clarify exemption requirements. These changes will pose no additional information collection burden on honey first handlers and importers.

Initial Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of the proposed rule on small entities. Accordingly, AMS has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR Part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (first handlers and importers) as those having annual receipts of no more than $7.0 million.

There are 661 importers and 42 first handlers of honey and honey products covered under the program. Seventeen out of the 42 first handlers (40 percent) and 21 out of the 661 importers (3 percent) accounted for 90 percent of the assessments in their respective categories. Total assessments for 2013 were $4.44 million, of which $1.12 million (25 percent) came from first handlers and $3.32 million (75 percent) was paid by importers. Dividing the honey production value for 2013 reported by the National Agricultural Statistics Service (NASS) of $317,087,000 [1] by the number of first handlers (42) yields an average annual producer revenue estimate of $7,549,690. It is estimated that in 2013, about 60 percent of the first handlers handled less than $7 million worth of honey and honey products. Based on 2013 Customs data, it is estimated that 90 percent of the importers shipped more than $7 million worth of honey and honey products.

This data can be used to compute an estimate of average annual revenue from honey sales from each of these categories, which in turn helps to estimate the number of large and small first handlers and importers. As mentioned above, 17 first handlers account for 90 percent of the domestic assessments. Multiplying first handler assessments of $1,122,390 by 0.9 and then dividing by 17 yields an average annual assessment of $59,421 for the first handlers in this category. With an assessment rate of one cent per pound, average quantity per first handler is 5.942 million pounds. Multiplying 5.942 million pounds by the NASS average 2013 U.S. domestic price of $2.12 per pound yields an average, annual honey revenue per packer of $12.60 million, which is well above the SBA threshold of $7 million. Therefore most of the 17 first handlers that pay 90 percent of the domestic assessments are likely to be large firms according to the SBA definition.

An equivalent computation can be made for the 21 importers who paid 90 percent of the $3,321,408 in assessments in 2013. Of the 21 importers, the average assessment per importer was $142,346 and the average quantity was 14.235 million. For honey imports, the equivalent of the season average price for domestic honey is referred to as a ''unit value.'' The unit value of $1.42 per pound is computed by dividing annual imported honey value of $480.25 million pounds by average quantity of 337.05 million pounds (import data from the U.S. Census Bureau). Multiplying the $1.42 unit value by the average quantity of 14.235 million pounds yields average annual honey revenue per importer figure of $20.21 million, nearly three times the SBA threshold figure of $7 million for a large firm. Therefore the majority of the 21 importers that pay 90 percent of the assessments are large firms, according to the SBA definition.

Comparable computations can be made to determine the average 2013 honey revenue for the 25 first handlers and 640 importers that paid 10 percent of the assessments in the first handler and importer categories. The first handler and importer average annual honey revenue figures are approximately $960,000 and $75,000, respectively, indicating that the vast majority are small businesses (in terms of honey sales), under the SBA large business threshold of $7 million in annual sales.

Based on the foregoing, the majority of first handlers and importers may be classified as small entities.

This proposed rule invites comments on amending section 1212.52 of the Order to increase the assessment rate from $0.01 to $0.015 per pound (an increase of $0.0025 per pound over a two year period). The Order is administered by the Board with oversight by USDA. Under the program, assessments are collected from first handlers and importers and used for research and promotion projects designed to maintain and expand the market for honey and honey products in the United States and abroad. Additional funds would enable the Board to expand its production research activities and promotional efforts. The Board uses its health information in its promotion messaging to help build demand. Increasing demand would help move the growing supply of honey and honey products, which would benefit producers, importers, first handlers, and consumers. Authority for this action is provided in section 1212.52(f) of the Order and section 517 of the 1996 Act.

The Board also proposed changes for two additional sections of the Order. Section 1212.71 of the Order would be revised to change the length of time that books and records are to be held from two years to three years. This change is proposed to conform with the Board's compliance procedures, which instructs the Board to conduct audit reviews every three years. Section 1212.53 of the Order would be revised to state that exemptions from assessments for a calendar year are effective on the date approved by the Board. This change is being made to clarify exemption requirements. These changes pose no additional information collection burden on honey first handlers and importers.

Regarding the economic impact of the proposed rule on affected entities, this action would increase the assessment obligation on first handlers and importers. While assessments impose additional costs on first handlers and importers, the costs are minimal and uniform on all. The costs would also be offset by the benefits derived from the operation of the program. It is estimated

[1] Honey, March 2014, USDA, National Agricultural Statistics Service, p. 3.

that 42 first handlers and 661 importers pay assessments under the program.

There has been one economic study conducted since the Order's inception that evaluated the effectiveness of the Board's promotion program. The study was conducted by Dr. Ronald M. Ward at the University of Florida in 2014 and titled ''Honey Demand and the Impact of the National Honey Board's Generic Promotion Program.'' This study may be obtained from *http://www.ams.usda.gov/.* The 2014 study included data from 1987 through 2012, and evaluated the effectiveness of the former Honey Research, Promotion, and Consumer Information Order, and the current honey marketing program. The earlier honey program operated from 1986 through 2008, as a producer program. The earlier program was replaced in 2008 with the current packer and importer program; producers are no longer directly subject to the mandatory assessment. Otherwise, the two programs are similar, including the administrative and operational oversight.

The purpose of the economic study was twofold: (1) To determine the market implications of the Board's promotion program and (2) to determine a return-on-investment (rate of return) for the promotion activities conducted by the Board.

To evaluate the effectiveness of the Board's domestic promotion activities, econometric models were developed for each of two distinct honey market segments: Manufacturing (honey used as an ingredient) and non-manufacturing (table honey). The models measured the impact of the Board's annual promotion expenditures while taking into account the impact of other factors that influence demand.

For the non-manufacturing model, the other factors were domestic supplies of honey, personal income, and the historical support price for honey. For the manufacturing model, the other factors were the quantity of sugar used in food manufacturing (as a proxy measure of the overall demand for sweeteners, including honey), and a variable which captured the structural change in the honey market that began in 2007, when the market share of honey imports began to increase significantly. The manufacturing model using Board expenditure lagged one year because Board promotion expenditure in the prior year was found to have the most significant impact on honey manufacturing demand in the current year.

Due to differences in data availability, the manufacturing model covered the time period of 1965 through 2012 and the non-manufacturing model spanned 1987 through 2012.

The econometric models used statistical methods to analyze annual data over these time periods and measure how strongly the various honey demand factors affect (a) the quantity of honey as an ingredient (manufacturing model) and (b) the price for table honey (non-manufacturing model). In both models, Board program expenditures were found to have a positive and statistically significant impact on demand. The models had reasonably strong explanatory power, with 80 percent of the variation in quantity demanded explained by the independent variables in the manufacturing model, and 89 percent of the variation in price explained by the non-manufacturing model variables.

The return on investment (ROI) for honey promotion was obtained by dividing the increased value of honey sales (for the two market segments combined) by Board program expenditures. The ROI for Board programs for the period 1987 to 2012 was 14.12, meaning $14.12 in returns (increased honey value) for every $1 spent on promotion. The results were similar for 2008 through 2012, the period covered by the new program funded by honey first handlers and importers.

An additional step in assessing promotional program effectiveness was to analyze the potential impact of alternative honey promotion spending levels. The two demand models were used to simulate gains for various percentages of actual 2012 promotional expenditures. The results show a range of increased honey demand impacts from increased spending, depending on alternative assumptions about the level of honey price and honey quantity. The simulation results suggest that a 50 percent increase in Board promotional expenditure would yield an additional $29 million in honey sales, if quantity demanded increased, but prices stayed the same. Alternatively, crop value would increase $44 million if prices went up but quantity stayed the same. Returns on investment were 14 or higher over this range of alternative assumptions about market conditions. These results were similar to the ROI cited earlier. Focusing on 2012 illustrates the effectiveness of the program under the funding mechanism that began in 2008.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0093. This proposed rule would not result in a change to the information collection and recordkeeping requirements previously approved and would impose no additional reporting and recordkeeping burden on honey first handlers and importers.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

The Board has been considering an increase in the assessment rate since 2011. The Board explored the need and justification for an increase as well as obtained feedback from the Board's stakeholders. Additionally, beginning 2011, the Board has done extensive outreach to include presentations, handouts, and industry meeting attendance. As an alternative to an assessment rate increase, the Board considered cutting programs. The Board reduced honey research in order to maintain marketing programs and considered cutting additional marketing programs. However, after further analysis, it was determined that additional cuts would hurt the program. Late 2013, the Board presented the proposed assessment increase to the various honey associations. Ultimately, at its January 2014 meeting, the Board unanimously recommended increasing the assessment rate to $0.0125 per pound for the first year (January 1 through December 31, 2015) and to $0.015 per pound for the second year and beyond (on and after January 1, 2016).

While USDA has performed this initial RFA analysis regarding the impact of the proposed rule on small entities, in order to have as much data as possible for a more comprehensive analysis, we invite comments concerning potential effects. USDA is also requesting comments regarding the number and size of entities covered under the proposed Order.

While this proposed rule set forth below has not received the approval of USDA, it has been determined that it is consistent with and would effectuate the purposes of the 1996 Act.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this action needs to be in place as soon as possible so the Board can begin to collect the additional funds for research and promotional activities designed to maintain and expand the market for honey and honey products in the United States and abroad. All written comments received in response to this proposed rule by the date specified will be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1212

Administrative practice and procedure, Advertising, Consumer information, Honey Packer and Importer promotion, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Part 1212, Chapter XI of Title 7 is proposed to be amended as follows:

PART 1212—HONEY PACKERS AND IMPORTERS RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1212 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

■ 2. In § 1212.52, paragraphs (a), (b), (c), (d) and (e) are revised to read as follows:

§ 1212.52 Assessments.

(a) The Board will cover its expenses by levying in a manner prescribed by the Secretary an assessment on first handlers and importers. For the period January 1 through December 31, 2015, the assessment rate shall be $0.0125 per pound of assessable honey and honey products. On and after January 1, 2016, the assessment rate shall be $0.015 per pound of assessable honey and honey products.

(b) Each first handler shall pay the assessment to the Board on all domestically produced honey or honey products the first handler handles. A producer shall pay the Board the assessment on all honey or honey products for which the producer is the first handler.

(c) Each first handler responsible for remitting assessments shall remit the amounts due to the Board's office on a monthly basis no later than the fifteenth day of the month following the month in which the honey or honey products were marketed.

(d) Each importer shall pay an assessment to the Board on all honey or honey products the importer imports into the United States. An importer shall pay the assessment to the Board through the United States Customs and Border Protection (Customs) when the honey or honey products being assessed enters the United States. If Customs does not collect an assessment from an importer, the importer is responsible for paying the assessment to the Board.

(e) The import assessment recommended by the Board and approved by the Secretary shall be uniformly applied to imported honey or honey products that are identified as HTS heading numbers 0409.00.00 and 2106.90.9988 by the Harmonized Tariff Schedule of the United States or any other numbers used to identify honey or honey products.

* * * * *

■ 3. In § 1212.53, paragraph (d) is revised to read as follows:

§ 1212.53 Exemption from assessment.

* * * * *

(d) Upon receipt of an application, the Board shall determine whether an exemption may be granted. The Board will then issue, if deemed appropriate, a certificate of exemption to each person who is eligible to receive one. The exemption is effective when approved by the Board. It is the responsibility of these persons to retain a copy of the certificate of exemption.

* * * * *

■ 4. Section 1212.71 is revised to read as follows:

§ 1212.71 Books and records.

Each first handler and importer, including those who are exempt under this subpart, must maintain any books and records necessary to carry out the provisions of this part, and any regulations issued under this part, including the books and records necessary to verify any required reports. Books and records must be made available during normal business hours for inspection by the Board's or Secretary's employees or agents. A first handler or importer must maintain the books and records for three years beyond the fiscal period to which they apply.

Dated: November 13, 2014.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2014–27253 Filed 11–17–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 79

[NPS–WASO–CR–16170; PPWOCRADI0, PCU00RP14R50000]

RIN 1024–AE17

Curation of Federally-Owned and Administered Archeological Collections

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend the regulations for the curation of federally-owned and administered archeological collections to establish definitions, standards, and procedures to dispose of particular material remains that are determined to be of insufficient archaeological interest. This rule would promote more efficient and effective curation of these archeological collections.

DATES: Comments must be received by February 17, 2015.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024–AE17, by any of the following methods:

- *Federal eRulemaking portal: http://www.regulations.gov.* Follow instructions for submitting comments.
- *Mail to:* Stanley C. Bond, Departmental Consulting Archeologist, National Park Service, Docket No. 1024–AE17, 1201 Eye Street NW., 7th Floor (2275), Washington, DC 20005.
- *Hand deliver to:* Stanley C. Bond, Departmental Consulting Archeologist, 1201 Eye Street NW., Room 760, Washington, DC 20005.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: David A. Gadsby, Archeology Program, National Park Service, 1201 Eye Street NW., Washington, DC 20005, 202–354–2101, email: *david_gadsby@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Statutory Authority and Jurisdiction

The Archaeological Resources Protection Act (ARPA; 16 U.S.C. 470aa–mm) authorizes the Secretary of the Interior to promulgate regulations for the disposition of archaeological

resources and other resources recovered under the authority of ARPA, the Reservoir Salvage Act (RSA; 16 U.S. C. 469–469c–2), as amended, and the Antiquities Act (16 U.S.C. 431–433). In addition, the National Historic Preservation Act (NHPA; 16 U.S.C. 470a(a)(7) and 470h–4(a)) authorizes the Secretary of the Interior to promulgate regulations for the proper curation of archeological collections created under NHPA, RSA, and ARPA. The Department of the Interior's Departmental Consulting Archeologist (DCA), located in the National Park Service (NPS), is responsible for developing regulations concerning the preservation of prehistoric and historic material remains of archaeological interest under ARPA, under the Department of the Interior's Departmental Manual ''Protection of the Cultural Environment'' (519 DM 2.3D).

Disposal of Particular Material Remains From Archeological Collections

The regulations at 36 CFR Part 79 establish definitions, standards, procedures, and guidelines to be followed by Federal agencies to preserve collections of prehistoric and historic material remains and associated records that generally include those resulting from a prehistoric or historic resource survey, excavation, or other study conducted in connection with a Federal action, assistance, license, or permit.

As currently written, 36 CFR Part 79 does not provide a process for Federal agencies to dispose of particular material remains from archeological collections that, after rigorous evaluation, are determined to have insufficient archaeological interest. Prehistoric or historic material remains improperly disposed of could later be rediscovered and misinterpreted by unwitting archeologists or others as evidence of activity in the distant past, so it is important to delineate appropriate methods of disposal. A proposed rule to establish procedures to discard particular material remains from Federal collections was published in the **Federal Register** in 1990 (55 FR 37670, September 12, 1990). The NPS received less than 10 sets of comments about the proposed rule, but these comments raised a variety of issues, including the following:

- Lack of defined terms.
- Potential for future development of archeological methods and theories that could be applied to disposed material remains.
- Qualifications of persons involved in the procedure to recommend the appropriateness of the decision to discard.
- Need for more detail about procedures to discard material remains.
- Need for procedures to determine a ''representative'' sample of bulky, non-diagnostic objects to be retained for future research from material remains to be discarded.
- Need for procedures to ensure that the discard of material remains would not create an artificial archeological site.

Due, in part, to the comments received, a final rule for the 1990 proposed rule was never published. Instead, the DCA decided to focus on proper curation of federally-owned and administered collections before the option to dispose of any material remains was introduced.

Proposed Rule

Based on renewed interest from Federal agencies, the Department of the Interior (DOI) now proposes new sections 79.12 through 79.18, and related amendments to sections 79.2 and 79.3 of 36 CFR Part 79, to establish regulations to dispose of particular material remains from federally-owned and administered archeological collections. This rule would establish certain circumstances under which specific procedures may be used to dispose of material remains of insufficient ''archaeological interest,'' as this term is defined in 43 CFR 7.3(a)(1). The term ''material remains,'' as defined in section 79.4(1)(a) of this part, refers to artifacts, objects, specimens, and other physical evidence, including human remains, of a historic or prehistoric resource and of historic or prehistoric cultures and lifeways. This proposed rule would not affect any material remains defined as ''cultural items'' by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), including human remains, funerary objects, sacred objects, or objects of cultural patrimony, and subject to the provisions of that statute. The Federal agency would be responsible for ensuring that disposition is conducted in accordance with the proposed rule and 36 CFR 79.7, ''Methods to fund curatorial services.''

In addition to providing a mechanism for appropriate and carefully considered disposition, this rule would improve the curation of federally-owned and administered archeological collections, including more effective space and cost management. This proposed rule would address many of the comments submitted in 1990 by incorporating independent advice and opinions supplied by numerous experts that we consulted while drafting the proposed rule between 2005 and 2013.

This proposed rule was written with the cooperation and consultation of the following Federal agencies and bureaus: Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), Bureau of Reclamation (BR), U.S. Fish and Wildlife Service (FWS), U.S. Air Force (USAF), U.S. Army Corps of Engineers (USACE), U.S. Navy (USN), and U.S. Forest Service (USFS). Each agency and bureau provided a specialist in the curation of archeological collections to participate in an informal interagency working group to provide expert advice during the drafting of this proposed rule.

Section-by-Section Analysis

Section 79.2 Authority

Paragraph 79.2(a) identifies the authorities under which the regulations in Part 79 are promulgated. The proposed rule would streamline the language and citations to these statutory authorities.

Section 79.3 Applicability

Section 79.3 explains the applicability of the regulations in Part 79. The proposed rule would clarify the applicability of these regulations by explaining what constitutes federally-owned and administered collections. The proposed rule would clarify that Part 79 applies to collections (i) that are owned by the United States and for which a Federal agency has practical management authority, either directly or indirectly, as a result of that ownership; and (ii) that are not owned by the United States but that are managed or controlled by Federal agencies under law.

This includes collections administered directly by a Federal agency or controlled by a Federal agency through the terms of an agreement, contract, or permit with a non-Federal organization or entity that is responsible for curation of a collection. This also includes collections for which a Federal agency has administrative authority resulting from authorized expenditures; and situations in which the Federal government has decision-making authority over the collections granted to it by law or regulation. For example, one Federal agency might fund an undertaking on land administered by another Federal agency. In this case, any material remains from such undertaking would be administered by the agency that recovered them.

Collections from Indian lands made under ARPA are another example of federally administered collections. Federal agencies are not the owners of

such collections. ARPA and its implementing regulations give BIA the authority to issue Permits for Archeological Investigation (PAIs) for Indian lands and the responsibility for custody of those collections (25 CFR Part 262). For example, Section 5 of ARPA and 43 CFR 7.13(c) apply to resources from both public and Indian lands and discuss the authority to exchange and dispose of resources. Material remains collected under a PAI are subject to the consent of the tribe or Indian before disposal or transfer to a curatorial facility through the BIA permitting process. The fact that these resources may be owned by a tribal or Indian owner does not remove them from Federal administration under ARPA.

Section 79.12 Determining Which Particular Material Remains are Eligible for Disposal

Paragraph 79.12(a) would identify which material remains from collections may be disposed of under the proposed rule. The terms ''material remains'' and ''collection,'' as used in the proposed rule, are defined in 36 CFR 79.4. Paragraph 79.12(b) would identify which material remains from collections may not be disposed of under the proposed rule. Paragraph 79.12(c) would identify who may propose the disposal of material remains from collections. Individuals who propose material remains for disposal should have verifiable knowledge of those particular material remains. The terms ''qualified museum professional,'' ''repository,'' and ''curatorial services,'' as used in the proposed rule, are defined in 36 CFR 79.4. Paragraph 79.12(d) would clarify that the Federal Agency Official, also defined in 36 CFR 79.4, is responsible for the disposition of material remains. Paragraph 79.12(e) would specify criteria to determine when particular material remains may be eligible for disposal because they are of insufficient archaeological interest. As defined in 43 CFR 7.3(a)(1), the term ''of archaeological interest'' means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics. The criteria in the proposed rule to determine which material remains may be eligible for disposal would distinguish particular material remains that no longer have those capabilities. The criteria would be narrowly defined to ensure that material remains of archaeological interest are not disposed of inadvertently or casually.

Section 79.13 Acceptable Methods for Disposition of Particular Material Remains

Section 79.13 would outline two procedures by which Federal Agency Officials may determine the methods of disposing of particular material remains. The first would apply to material remains recovered from Indian lands, while the second would apply to material remains that are not from Indian lands.

Paragraph (a) in § 79.13 would identify appropriate methods of disposing of particular material remains determined to be of insufficient archaeological interest that have been excavated or removed from Indian lands after October 31, 1979. As defined in ARPA (16 U.S. C. 470 bb(4)), the term ''Indian lands'' means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or are subject to a restriction against alienation imposed by the United States, except for any subsurface interests in land not owned or controlled by an Indian tribe or an Indian individual. The proposed rule would require the Federal Agency Official to offer to return the material remains to the Indian tribe or Indian individual from whose lands the material remains were excavated or removed under ARPA's custody regulations, 43 CFR 7.13(b), 36 CFR 296.13(b), 32 CFR 229.13(b), and 18 CFR 1312.13(b). The tribe or individual may or may not choose to accept custody of these material remains. Determining the appropriate Indian tribe or individual to be approached about disposition would be made based on existing documentation concerning the location of the relevant archeology site.

Paragraph (b) in § 79.13 would identify appropriate methods of disposing of particular material remains determined to be of insufficient archaeological interest that were not excavated or removed from Indian lands. These material remains may be transferred within the Federal agency; transferred to another Federal agency; conveyed to a suitable repository; conveyed to a federally recognized Indian tribe; conveyed to another institution, such as a school or historical society; or—if all of the other methods of disposition are unacceptable—destroyed. These methods were listed in priority order in a draft of the proposed rule sent to leaders of federally recognized tribes in 2009. Based on outreach to tribes in 2013, the methods of disposal in the proposed rule are no longer listed in priority order.

Section 79.14 Restrictions on Disposition of Particular Material Remains

Paragraph (a) in § 79.14 would prohibit Federal employees or their relatives from acquiring disposed material remains or benefiting in any way from a disposition.

Paragraph (b) in § 79.14 would prohibit disposed material remains from being traded, sold, bought, or bartered as commercial goods.

Section 79.15 Final Determination on Disposition of Particular Material Remains

Section 79.15 would describe the process that the Federal Agency Official must follow in order to reach a final determination of disposition of particular material remains. It would also clarify that any determination made under this section must in no way affect the Federal land manager's obligations under other applicable laws and regulations. This section would require the Federal Agency Official to do the following:

- Verify that material remains are appropriately documented through a professional procedure approved by the Federal agency that is consistent with curatorial services as defined in § 79.4(b).
- Establish a collections advisory committee to review proposed dispositions of material remains.
- Retain a representative sample of those material remains determined to be overly redundant and not useful for research.
- Retain all associated records in the archeological collection as defined in § 79.4(a)(2).
- Notify appropriate entities of the proposed disposition and solicit comments on the proposal. If the material remains proposed to be disposed of are from a site on public lands that has religious or cultural importance to an Indian tribe or tribes, the proposed rule would require that these Indian tribes be notified of the proposed disposition.
- Publish a notice of determination of disposition in the **Federal Register** with specific information that the Federal Agency Official must include in this notice and in the determination itself.

Section 79.16 Objecting to a Determination of Disposition of Particular Material Remains

This section would describe the process for objecting to a determination of disposition by requesting a review from the DCA, and the process for reaching a final determination of disposition.

Section 79.17 Timing of Disposition

Section 79.17 would prevent the disposition of material remains until 30 days after the notice of determination of disposition is published in the **Federal Register**. If the Federal agency receives an objection to the determination, however, disposal would occur after the Federal Agency Official's notice of decision on the objection and any amendments are published in the **Federal Register**.

Section 79.18 Administrative Record of Disposition

Paragraph (a) would identify the types of activities that must be documented in the administrative record supporting the Federal Agency Official's final determination to dispose of particular material remains. This paragraph would require that the administrative record for a disposition of material remains be made public upon request and would require that the Federal agency review and update the catalog and inventory documents related to the disposal.

Compliance With Other Laws, Executive Orders and Department Policy. 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 will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 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. Executive Order 13563 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. Executive Order 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

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This certification is based on information contained in the economic analyses found in the report entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations on the Curation of Federally-Owned and Administered Archeological Collections'' that is available online at *http://www.nps.gov/archeology/tools/laws/Regulatory_Analyses_36_CFR_Part_79_12.pdf.*

Small Business Regulatory Enforcement Fairness Act

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

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

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

The rule relates to internal administrative procedures and management of government function. It does not regulate external entities, impose any costs on them, or eliminate any procedures or functions that would result in a loss of employment or income on the part of the private sector.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. This rule does not have a significant or unique effect on state, local or tribal governments, or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.) is not required. This rule produces no costs outside of the Federal government and does not create an additional burden on state, local, or tribal governments, or the private sector.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule does not regulate, change, or otherwise affect the relationship between Federal and state governments. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This proposed rule does not contain collections of information that require approval by the Office of Management and Budget under the Paperwork Reduction Act. This rule would not impose recordkeeping or reporting requirements on state, tribal, or local governments; individuals; businesses; or organizations. 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.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it qualifies as a regulation of an administrative and procedural nature. (For further information see 43 CFR 46.210(i)). This rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Federal Advisory Committee Act

Intergovernmental consultation recommended under this rule is exempt from the Federal Advisory Committee Act (FACA). This rule requires that consultation with Indian tribes be conducted between Federal officials and elected tribal officers or their designated employees acting in their official capacities, who meet solely for the purpose of exchanging views, information, or advice related to the management or implementation of this rule. Consultation with tribes under this rule thus meets the two-part test for an

exemption from the FACA set out in the Unfunded Mandates Reform Act of 1995, Public Law 104–4.

Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consult with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have identified direct effects on federally recognized Indian tribes that will result from this rule. We conducted outreach to tribes and Native Hawaiian Organizations, initiated consultation through two letters to tribal leaders, and conducted face-to-face consultation on this proposed rule upon request. Additional information regarding the identified effects on Indian tribes and these outreach and consultation efforts is contained in a document entitled ''Consultation with Indian Tribes (E.O. 13175) regarding the proposed 36 CFR 79.12,'' which is available at the following Web site: *http://www.nps.gov/archeology/tools/laws/Tribal_Consultation_36_CFR_Part_79_12.pdf.*

Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which paragraphs or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Drafting Information. This proposed rule was prepared by the office of the Departmental Consulting Archeologist, National Park Service, Washington, DC with the able assistance of an informal interagency working group. Terry Childs (DOI) drafted the proposed rule and served as chair of the group that included Michael Hilton (USFS), Thomas Lincoln (BR), Eugene Marino (FWS), Kathleen McLaughlin (USN and US Army), Emily Palus (BIA and BLM), Christopher Pulliam (USACE), and James Wilde (USAF). Marvin Keller and Anna Pardo (BIA) and Rochelle Bennett (BR) joined the working group in 2013. David Gadsby (NPS) also joined the group and provided administrative oversight of the proposed rule. Carla Mattix and Stephen Simpson of the Department of the Interior's Office of the Solicitor provided legal guidance.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by following the instructions in the **ADDRESSES** section of this document.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personally identifiable information—may be made publicly available at any time. While you can ask in your comment to withhold your personal identifiable information from public view, we cannot guarantee that we will be able to do so.

List of Subjects in 36 CFR Part 79

Archives and records, Historic preservation, Indians-lands, Museums, Public lands.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 79 as set forth below:

PART 79—CURATION OF FEDERALLY-OWNED AND ADMINISTERED ARCHAEOLOGICAL COLLECTIONS

■ 1. The authority citation for part 79 continues to read as follows:

Authority: 16 U.S.C. 470aa–mm, 16 U.S.C. 470 *et seq.*

■ 2. Sections 79.1 through 79.4 are designated as subpart A under the following heading:

Subpart A—Administrative Provisions

■ 3. In § 79.2, revise paragraph (a) to read as follows:

§ 79.2 Authority

(a) The regulations in this part are promulgated under 16 U.S.C. 470a(7) which requires that the Secretary of the Interior issue regulations ensuring that significant prehistoric and historic artifacts and associated records are deposited in an institution with adequate long-term curatorial services. This requirement applies to artifacts and associated records subject to the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Reservoir Salvage Act (16 U.S.C. 469–469c), and the Archaeological Resources Protection Act (16 U.S.C. 470aa–mm).

* * * * *

■ 4. In § 79.3, in paragraph (a) introductory text, add two sentences at the end to read as follows:

§ 79.3 Applicability.

(a) * * * Such collections also include those that are owned by the United States and for which a federal agency has practical management authority, either directly or indirectly, as a result of that ownership; and those collections that are not owned by the United States but that are managed or controlled by a federal agency pursuant to law. The collections described in this paragraph are considered federally-owned and administered for purposes of this part.

* * * * *

■ 5. Sections 79.5 through 79.9 are designated subpart B under the following heading:

Subpart B—Archeological Collections Management

■ 6. Section 79.10 is designated subpart C under the following heading:

Subpart C—Public Access to and Use of Collections

■ 7. Section 79.11 is designated subpart D under the following heading:

Subpart D—Inspections and Inventories of Collections

■ 8. Add subpart E to read as follows:

Subpart E—Disposition of Particular Material Remains

Sec.

79.12 Determining which particular material remains are eligible for disposal.

§ 79.12 Determining which particular material remains are eligible for disposal.

(a) *Which material remains are eligible for disposal?* In order to be eligible for disposal, material remains from collections must be:

(1) Archaeological resources, as defined in 16 U.S.C. 470bb(1), or other resources excavated and removed under the Reservoir Salvage Act (16 U.S.C. 469–469c) or the Antiquities Act (16 U.S.C. 431–433); and

(2) Considered to be of insufficient archaeological interest under the criteria in paragraph (e) of this section, based on the definition of ''of archaeological interest'' in 43 CFR 7.3(a)(1).

(b) *Which material remains may not be disposed of?* The following material remains from collections may not be disposed of:

(1) Native American ''cultural items'' as defined in the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001(3)), since disposition is governed by that Act and its implementing regulations (43 CFR 10);

(2) Human remains;

(3) Material remains excavated and removed from Indian lands on or before October 31, 1979; and

(4) Material remains excavated and removed from Indian lands under the Antiquities Act (16 U.S.C. 431–433).

(c) *Who may propose the disposal of particular material remains?* The following individuals may propose the disposal of particular material remains from a collection:

(1) Agency staff members, including archeologists, curators, and conservators; and

(2) Qualified museum professionals located in a repository that provides curatorial services for a collection held in that repository.

(d) *Who is responsible for the disposal of particular material remains?* The Federal Agency Official is responsible for ensuring that particular material remains are disposed of from collections according to the requirements of this part.

(e) *When are particular material remains considered to be of insufficient archaeological interest?* Particular material remains are considered to be of insufficient archaeological interest when, on a case-by-case basis, at least one qualified archeological or museum professional with experience in the type of material remains being evaluated determines and documents that:

(1) Disposition of the material remains will not negatively impact the overall integrity of the original collection recovered during the survey, excavation, or other study of a prehistoric or historic resource; and

(2) At least one of the following three requirements—lack of provenience information; lack of physical integrity; or overly redundant and not useful for research—are met:

(i) *Lack of provenience information.* Lack of provenience information may be established by one or more of the following circumstances:

(A) The labels on the material remains or the labels on the containers that hold the material remains do not provide adequate information to reliably establish meaningful archeological context for the material remains;

(B) The labels on the material remains or the labels on the containers that hold the material remains have been lost or destroyed over time and cannot be reconstructed through the associated records; or

(C) The associated records of the material remains have been lost or destroyed and cannot be recovered after a concerted effort to find them is performed and documented.

(ii) *Lack of physical integrity.* Material remains lack physical integrity when, subsequent to recovery during the survey, excavation, or other study of a prehistoric or historic resource, the material remains were irreparably damaged through decay or decomposition over time, or as a result of a human-caused incident or a natural disaster.

(iii) *Overly redundant and not useful for research.* A determination that material remains are overly redundant and not useful for research must be carefully considered. Archeological context, research questions, and research potential may vary based on geography, time and culture period, scientific or cultural significance, prior analysis, and other factors. It is difficult to predict if future analytical methods will yield useful information about the material remains proposed for disposal. As a result, a representative sample of material remains that are determined to be overly redundant and not useful for research must be retained for curation, as required by § 79.15(d).

§ 79.13 Acceptable methods for disposition of particular material remains.

(a) Material remains excavated or removed from Indian lands after October 31, 1979, that are archaeological resources under the Archaeological Resources Protection Act (16 U.S.C. 470aa–mm) remain the property of the Indian individual or Indian tribe having rights of ownership over the resources. Under the authority of 16 U.S.C. 470dd, disposition of these material remains that are determined to be of insufficient archaeological interest under the criteria in § 79.12(e) are subject to the consent of the Indian individual or Indian tribe. The Federal Agency Official must use the following methods of disposal for these material remains in the following order:

(1) Return them to the Indian individual or Indian tribe having rights of ownership under the Archaeological Resources Protection Act's custody regulations, 43 CFR 7.13(b), 36 CFR 296.13(b), 32 CFR 229.13(b), and 18 CFR 1312.13(b).

(2) If the Indian individual or Indian tribe having rights of ownership does not wish to accept them, the Federal Agency Official may otherwise dispose of the material remains using the disposition methods in § 79.13(b) after receiving written consent from the Indian individual or Indian tribe having rights of ownership.

(b) This paragraph applies to material remains that are determined to be of insufficient archaeological interest under § 79.12(e) and that were excavated or removed from lands that are not Indian lands. The Federal Agency Official may use any of the following methods for disposal of the material remains.

(1) Transfer to another Federal agency.

(2) Convey to a suitable public or tribal scientific or professional repository as defined in § 79.4(j) of this part.

(3) Convey to a federally recognized Indian tribe if the material remains were excavated or removed from lands of religious or cultural importance to that tribe and were identified and documented by a Federal land manager under 43 CFR 7.7(b)(1).

(4) Convey to a federally recognized Indian tribe from whose aboriginal lands the material remains were removed. Aboriginal occupation may be documented by a final judgment of the Indian Claims Commission or the United States Court of Claims, or a treaty, Act of Congress, or Executive Order.

(5) Transfer within the Federal agency for the purpose of education or

interpretation, or convey to a suitable institution to be used for public benefit and education including, but not limited to, local historical societies, university or college departments, and schools.

(6) If the Federal Agency Official considers each of these prior methods carefully and is still unable to find an acceptable method of disposition, then destruction may be considered. The Federal Agency Official or their designee must witness and document the destruction, including through photography or video.

§ 79.14 Restrictions on disposition of particular material remains.

(a) *Can Federal employees and their relatives acquire disposed material remains?* No. Federal employees or their relatives cannot acquire disposed material remains (or a financial interest therein) and must not appear to benefit personally in any way from an action to deaccession or dispose of archeological material remains.

(b) *Can disposed material remains be regarded as commercial goods?* No. Disposed material remains may not be traded, sold, bought, or bartered as commercial goods.

§ 79.15 Final determination on disposition of particular material remains.

The Federal Agency Official is responsible for ensuring that the agency disposes of material remains according to the requirements of this part. A determination made under this part in no way affects the Federal land manager's obligations under other applicable laws or regulations. The Federal Agency Official must carry out all of the following steps before making a final determination that it is appropriate to dispose of material remains.

(a) The Federal Agency Official must determine that the material remains are eligible for disposal under the criteria in § 79.12(a), including a written verification that no Native American ''cultural items'' as defined in the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001(3)) are considered for disposal.

(b) The Federal Agency Official must verify that the material remains are appropriately documented through a professional procedure approved by the Federal agency that is consistent with curatorial services, including accessioning and cataloging, as defined in § 79.4(b) of this part.

(c) The Federal Agency Official must establish a collections advisory committee of at least five members to review proposed dispositions of material remains and make recommendations to the Federal Agency Official about proposed dispositions based on the adequacy of the documentation addressing the requirements in § 79.15(a) and (b) and the appropriateness of the proposed disposition.

(1) The collections advisory committee must consist of qualified employees from Federal agencies who meet appropriate Professional Qualification Standards set by the Secretary of the Interior, and must include the principal archeologist and curator of the Federal agency that owns or administers the material remains if either of these two positions exists.

(2) Committee members must include Federal employees with subject matter or technical expertise. These employees may include archeologists, anthropologists, curators, and conservators with expertise in historic, prehistoric, or underwater material remains.

(3) Committee members may include or one or more members of a federally recognized Indian tribe regularly consulted by the Federal agency who are elected tribal officers or their designated employees acting in their official capacities.

(4) The committee must have written procedures, including terms of member appointments and duration of the committee, approved by the Federal Agency Official to ensure all recommendations of disposal are fair, open, timely, and in the best interests of the public.

(5) Federal employees or qualified members of federally recognized Indian tribes may be temporarily added to the committee if its current members determine that specific expertise is needed on a case-by-case basis.

(6) Committee members or their family members may not benefit financially or in any other way from a disposition of material remains.

(d) The Federal Agency Official must retain a representative sample of those material remains determined to be overly redundant and not useful for research.

(1) The size of the representative sample must be large enough to permit future analysis for research purposes.

(2) The method for establishing a representative sample, including sample size and typology, must be determined by a qualified museum or archeological professional with expertise in the type of prehistoric or historic material remains being sampled.

(3) The sampling method must be well documented and consistent with professional prehistoric or historic archeological practice.

(e) The Federal Agency Official must retain all associated records in the archeological collection as defined in § 79.4(a)(2) of this part. A copy of the original associated records must be given to the recipient of any transferred or conveyed items subject to the restrictions stipulated in the Archaeological Resources Protection Act (16 U.S.C. 470hh(a)).

(f) The Federal Agency Official must notify the entities listed in this paragraph of the proposed disposition and solicit comments on the proposal. Notifications must be made in writing, and must include a deadline for submitting comments, in accordance with procedures established by the Federal agency. All written comments must be reviewed and responded to by the Federal Agency Official and the collections advisory committee. Notice must be given to the following:

(1) The State Historic Preservation Officer from the state(s) where the particular objects to be disposed were recovered.

(2) The Tribal Historic Preservation Officer (or other designated tribal representative) from the tribal land(s) where the particular objects to be disposed were recovered.

(3) Federal, state, tribal, or local agencies that were involved in the recovery of the objects to be disposed.

(4) Universities, museums, scientific institutions, and educational institutions with an active department of or program in archaeology or anthropology that have interest in the archaeology of the region from which the objects to be disposed of were recovered.

(5) Indian tribes that consider the land to have religious or cultural importance, if the material remains are from a site on public lands that has religious or cultural importance to Indian tribes under 43 CFR 7.7(b)(1).

(6) Indian tribes from whose aboriginal lands the material remains were removed, if aboriginal occupation has been documented by a final judgment of the Indian Claims Commission or the United States Court of Claims, treaty, Act of Congress, or Executive Order.

(g) The Federal Agency Official must, after the comment period described in § 79.15(f) has expired, publish a notice of determination of disposition in the **Federal Register**.

(1) The notice published in the **Federal Register** must include the following:

(i) A general description of the material remains to be disposed.

(ii) The criteria used to determine that the material remains are of insufficient archaeological interest under § 79.12(e).

(iii) The method of disposal.

(iv) The name of the Federal Agency Official or their designee as a point of contact.

(v) An explanation of a person's right to object to the determination of disposition under § 79.16 and the name and address of the Department of the Interior's Departmental Consulting Archeologist.

(2) The determination referenced by the notice must include the following:

(i) A detailed list of the material remains to be disposed, including a description of each object, or lot of objects if there are multiples of a particular type, and a photograph of the objects when appropriate.

(ii) The criteria used to determine that the material remains are of insufficient archaeological interest under § 79.12(e).

(iii) Justification of the method to be used to dispose of the material remains under § 79.13.

(iv) Documentation that all of the procedures in §§ 79.15 and 79.16 have been met.

(v) The name of the recipient entity or method of destruction, as appropriate.

(vi) The name of the Federal Agency Official or their designee as a point of contact.

(vii) Other conditions of transfer or conveyance, as appropriate.

(viii) A statement that the determination is a final agency action under the Administrative Procedure Act unless an objection is filed in accordance with § 79.16.

§ 79.16 Objecting to a determination of disposition of particular material remains.

Anyone may object to and request in writing that the Departmental Consulting Archeologist review a Federal Agency Official's determination to dispose of material remains within 30 days of publication in the **Federal Register**. The request must document why the requester disagrees with the Federal Agency Official's determination or the terms and conditions to be applied to the disposal. The procedure for objecting to a determination of disposition is as follows:

(a) The request must be sent to the Departmental Consulting Archeologist, whose address must be published with the notice of determination of disposition in the **Federal Register**. The Departmental Consulting Archeologist must immediately forward a copy of the request to the Federal Agency Official who made the determination under objection. The Federal Agency Official must postpone the planned disposition until the Departmental Consulting Archeologist completes the requested review.

(b) The Departmental Consulting Archeologist must review the request, the Federal Agency Official's determination, and its supporting documentation.

(c) Within 60 days of receipt of the request, the Departmental Consulting Archeologist must transmit to the Federal Agency Official a non-binding recommendation for further consideration.

(d) The Federal Agency Official must consider the recommendation in making a final determination. Within 60 days of receipt of the recommendation, the Federal Agency Official must respond to the Departmental Consulting Archeologist and the requester with a final determination. The final determination must include any information on administrative appeal rights required by internal agency appeal procedures or a statement that the final determination is a final agency action under the Administrative Procedure Act, as appropriate.

(e) The Federal Agency Official must publish notice of the decision on the objection and any amendments made to the original determination of disposition in the **Federal Register**.

§ 79.17 Timing of disposition.

Disposition will occur no sooner than 30 days after the notice of determination of disposition is published in the **Federal Register** under § 79.15(g). If the Federal agency receives an objection under § 79.16, however, disposal will occur after the Federal Agency Official's notice of decision and any amendments are published in the **Federal Register** under § 79.16(e).

§ 79.18 Administrative record of disposition.

(a) After the Federal Agency Official has made a final determination of disposition, he or she must document the determination and retain the administrative record as used in the definition of associated records in § 79.4(a)(2), which must include:

(1) The professional evaluation of the material remains, conducted under § 79.12(e) and § 79.15(b).

(2) The recommendations and rationale of the collections advisory committee provided in accordance with § 79.15(c).

(3) Notifications of the proposed disposition under § 79.15(f); consent of Indian individuals or tribes, if applicable, under § 79.13(a); and comments received from the parties notified under § 79.15(f).

(4) Requests for review received by the Departmental Consulting Archeologist, the non-binding recommendation of the Departmental Consulting Archeologist, and the response by the Federal Agency Official to the Departmental Consulting Archeologist and the requester, as appropriate, under § 79.16.

(5) The disposition action with specific information, including a description and evaluation of objects; the method of disposition and the reason for the method chosen; names and titles of persons initiating and approving the disposition; date of disposition; relevant accession and catalog numbers; evidence of the receipt for the return, transfer, or conveyance of the material remains by the recipient tribe, agency, repository, or institution, including the title to the received material remains, as appropriate; photographic documentation, as appropriate; and the name and location of the recipient institution or entity, as appropriate.

(6) A detailed inventory of the reasonable and representative sample of material remains retained, when the larger proportion is disposed of because it is overly redundant and not useful for research.

(7) Other activities and decisions pertaining to the disposition of the material remains, such as conditions of use after the disposition is completed, as appropriate.

(b) The administrative record must be made available to the public upon request, unless the information or a portion of it must be withheld under the terms of the Freedom of Information Act (5 U.S.C. 552) or the Archaeological Resources Protection Act (16 U.S.C. 470hh). The latter restricts the government's ability to make sensitive information, such as archeological site location data, available to the public.

(c) After disposition, the accession and catalog records must be reviewed and amended through a procedure established by the Federal agency. The amendments must identify the material remains that were deaccessioned and disposed of, the date of disposition, and the manner in which they were disposed. The documentation prepared under §§ 79.15 through 79.16 and 79.18(a) must be retained.

Dated: November 5, 2014.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–26839 Filed 11–17–14; 8:45 am]

BILLING CODE 4310–EJ–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2015–5; Order No. 2246]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning a Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (Proposal Twelve). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 8, 2014. *Reply Comments are due:* December 15, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On November 7, 2014, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate an informal rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] It identifies the change filed in this docket as Proposal Twelve: To Establish a Cost Methodology for the Postal Service Customer Care Centers. *Id.* Attachment at 1. The Postal Service concurrently filed public and non-public versions of a supporting Excel spreadsheet, along with an application for non-public treatment for the sealed version.[2]

II. Summary of Proposal

Background. This proposal presents changes in the costing methodology for call centers due to a change in how these centers are staffed. Previously, the Postal Service outsourced call center positions; recently, it brought these positions in-house and converted them to clerk craft positions. Petition, Attachment at 1.

Costs associated with outsourced call center activities have been included in Cost Segment 16. *Id.* The Postal Service proposes including the bulk of FY 2014 call center expenses in Cost Segment 3 on grounds that clerks performed the bulk of call center work in FY 2014. *Id.* It identifies existing Cost Segment 3.3, Administrative Support and Miscellaneous clerk costs, as the logical choice for these costs because the activities are similar in nature to the activities of Claims and Inquiries clerks, and proposes creating a new cost component within Cost Segment 3.3 (Customer Care Centers, number 424).[3] *Id.*

In terms of cost assignment, the Postal Service proposes that costs associated with specific inquiries relating to mail products or special services (and a proportionate share of clerk support costs) be fully attributed to those products. It proposes that costs associated with inquiries not related to products (such as ZIP Code inquiries) be treated as institutional costs. *Id.* at 2.

The Postal Service asserts that achieving the correct assignment of institutional and attributable costs requires several steps, states that a public spreadsheet shows the specific calculations, and provides a brief explanation. *Id.* at 2–3.

Cost impacts. The Postal Service estimates the FY 2014 clerk labor costs for the call centers at approximately $85.1 million. *Id.* at 1. It states that under the proposed method, approximately 56 percent of the accrued call center costs would be treated as attributable. *Id.* at 5. It provides an illustration of the overall model and a table showing how the estimated FY 2014 costs would be attributed and distributed to products under the proposed methodology. *Id.* at 5–7. The table shows the impact in terms of unit attributable costs for each market dominant product. *Id.* at 6–7. The impact on the specific competitive products appears in the spreadsheet filed under seal. *Id.* at 6.

III. Initial Commission Action

The Commission establishes Docket No. RM2015–5 for consideration of matters raised by the Petition. Additional information concerning the Petition may be accessed via the Commission's Web site at *http://www.prc.gov.* Interested persons may submit comments on the Petition no later than December 8, 2014. Reply comments are due no later than December 15, 2014. Pursuant to 39 U.S.C. 505, Cassie D'Souza is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2015–5 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Twelve), filed November 7, 2014.

2. Comments are due no later than December 8, 2014.

3. Reply comments are due no later than December 15, 2014.

4. Pursuant to 39 U.S.C. 505, the Commission appoints Cassie D'Souza to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–27210 Filed 11–17–14; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0270; FRL–9919–41–Region 4]

Approval and Promulgation of Implementation Plans; Mississippi; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Twelve), November 7, 2014 (Petition).

[2] Notice of Filing of USPS–RM2015–5/NP1 and Application for Nonpublic Treatment, November 7, 2014 (collectively, Application). The Application incorporates by reference the Application for Non-Public Treatment of Materials contained in Attachment Two to the December 27, 2013 United States Postal Service Fiscal Year 2013 Annual Compliance Report. Application at 1. See 39 CFR part 3007 for information on access to non-public material.

[3] This proposal does not seek to change established costing methods for contractor costs associated with call centers that are included in Cost Segment 16. *Id.*

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve in part and disapprove in part the November 17, 2011, State Implementation Plan (SIP) submission, provided by the Mississippi Department of Environmental Quality (MDEQ) for inclusion into the Mississippi SIP. This proposal pertains to the Clean Air Act (CAA or the Act) infrastructure requirements for the 2008 Lead national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. MDEQ certified that the Mississippi SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in Mississippi (hereafter referred to as an ''infrastructure SIP submission''). With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting and the state board majority requirements respecting significant portion of income, EPA is proposing to determine that Mississippi's infrastructure SIP submission, provided to EPA on November 17, 2011, addresses the required infrastructure elements for the 2008 Lead NAAQS.

DATES: Written comments must be received on or before December 18, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0270, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2013–0270,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2013–0270. 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 through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person 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 Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farngalo, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9152. Mr. Farngalo can be reached via electronic mail at *farngalo.zuri@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

On October 5, 1978, EPA promulgated primary and secondary NAAQS for Lead under section 109 of the Act. *See* 43 FR 46246. Both primary and secondary standards were set at a level of 1.5 micrograms per cubic meter ($\mu g/m^3$), measured as Lead in total suspended particulate matter (Pb-TSP), not to be exceeded by the maximum arithmetic mean concentration averaged over a calendar quarter. This standard was based on the 1977 Air Quality Criteria for Lead (USEPA, August 7, 1977). On November 12, 2008 (75 FR 81126), EPA issued a final rule to revise the primary and secondary Lead NAAQS. The revised primary and secondary Lead NAAQS were revised to 0.15 $\mu g/m^3$. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs to EPA no later than October 15, 2011, for the 2008 Lead NAAQS.[1]

[1] In these infrastructure SIP submissions states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with

Continued

Today's action is proposing to approve Mississippi's infrastructure submissions for the applicable requirements of the 2008 Lead NAAQS, with the exception of the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J) and the majority requirements respecting significant portion of income of section 110(a)(2)(E)(ii). With respect to Mississippi's infrastructure SIP submission related to the provisions pertaining to the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J), EPA is not proposing any action today regarding these requirements. EPA will act on these portions of the submission in a separate action. With respect to Mississippi's infrastructure SIP submission related to the majority requirements respecting significant portion of income of 110(a)(2)(E)(ii), EPA is proposing to disapprove this portion of Mississippi's November 17, 2011 submission in today's rulemaking. For the aspects of Mississippi's infrastructure SIP submission proposed for approval today, EPA is not approving any specific rule, but rather proposing that Mississippi's already approved SIP meets certain CAA requirements.

II. What elements are required under sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. In the case of the 2008 Lead NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with the 1978 Lead NAAQS.

Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The general requirements that are the subject of EPA's infrastructure SIP rulemaking are listed below [2] and in EPA's October 14, 2011, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)'' (2011 Lead Infrastructure SIP Guidance).

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement, Prevention of Significant Deterioration (PSD) and new source review (NSR).[3]
- 110(a)(2)(D): Interstate and international transport provisions.
- 110(a)(2)(E): Adequate personnel, funding, and authority.
- 110(a)(2)(F): Stationary source monitoring and reporting.
- 110(a)(2)(G): Emergency episodes.
- 110(a)(2)(H): Future SIP revisions.
- 110(a)(2)(I): Nonattainment area plan or plan revision under part D.[4]
- 110(a)(2)(J): Consultation with government officials, public notification, and PSD and visibility protection.
- 110(a)(2)(K): Air quality modeling/data.
- 110(a)(2)(L): Permitting fees.
- 110(a)(2)(M): Consultation/participation by affected local entities.

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the SIP submission from Mississippi that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the Lead NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and

sections 110(a)(1) and (2). Throughout this rulemaking, unless otherwise indicated, the term ''Air Pollution Control (APC)'' or ''Section APC–S–X'' indicates that the cited regulation has been approved into Mississippi's federally-approved SIP. The term ''Mississippi Code'' indicates cited Mississippi state statutes, which are not a part of the SIP unless otherwise indicated. Additionally, since the time of Mississippi's infrastructure SIP submissions for the 2008 Lead NAAQS, the state's implementation plan and statutes and have been recodified. In its original infrastructure SIP submission, MDEQ refers to *Mississippi Code Title 49* as ''Appendix A–8.'' However, Mississippi supplemented its original infrastructure SIP submission following this recodification, and as such, updated the Mississippi Code reference to ''Appendix A–9'' to reflect the most current codification. Accordingly, EPA utilizes the ''Appendix A–9'' reference throughout today's rulemaking.

[2] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today's proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[3] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[4] As mentioned above, this element is not relevant to today's proposed rulemaking.

section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[5] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[6] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[7] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[8] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[9]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[10]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP

[5] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[6] *See, e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[7] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, e.g., that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[8] *See, e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[9] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[10] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[11] EPA issued the 2011 Lead Infrastructure SIP Guidance [12] to provide states with up-to-date guidance for Lead infrastructure SIPs. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions. The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.[13]

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[14] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[15] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[16]

IV. What is EPA's analysis of how Mississippi addressed the elements of sections 110(a)(1) and (2) ''infrastructure'' provisions?

The Mississippi infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission limits and other control measures:* Mississippi's infrastructure SIP submission provides an overview of the provisions of the Mississippi Air Pollution Control (APC) regulations relevant to air quality control. *Mississippi Code Title 49,* Section 49–17–17(h) (Appendix A–9) and Sections APC–S–1—*Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants,* and APC–S–3—*Regulations for the Prevention of Air Pollution Emergency Episodes,* provide the MDEQ with the authority to adopt, modify, or repeal ambient air quality standards and emission standards for the state under such conditions as the Mississippi Commission on

[11] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[12] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements Required under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS),'' Memorandum from Stephen D. Page, October 14, 2011.

[13] Although not intended to provide guidance for purposes of infrastructure SIP submissions for the 2008 Lead NAAQS, EPA notes, that following the 2011 Lead Infrastructure SIP Guidance, EPA issued the ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' Memorandum from Stephen D. Page, September 13, 2013. This 2013 guidance provides recommendations for air agencies' development and the EPA's review of infrastructure SIPs for the 2008 ozone primary and secondary NAAQS, the 2010 primary nitrogen dioxide (NO_2) NAAQS, the 2010 primary sulfur dioxide (SO_2) NAAQS, and the 2012 primary fine particulate matter ($PM_{2.5}$) NAAQS, as well as infrastructure SIPs for new or revised NAAQS promulgated in the future.

[14] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[15] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, e.g., 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[16] *See, e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See, e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

Environmental Quality (Commission) may prescribe for the prevention, control, and abatement of pollution. EPA has made the preliminary determination that the above provisions and Mississippi's practices are adequate to protect the 2008 Lead NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during SSM of operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency plans to address such state regulations in the future.[17] In the meantime, EPA encourages any state having a deficient SSM provision to take steps to correct it as soon as possible.

Additionally, in this action, EPA is not proposing to approve or disapprove any existing State rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B): *Ambient air quality monitoring/data system:* SIPs are required to provide for the establishment and operation of ambient air quality monitors, the compilation and analysis of ambient air quality data, and the submission of these data to EPA upon request. *Mississippi Code Title 49,* Section 49–17–17(g) (Appendix A–9), provides MDEQ with the necessary statutory authority to collect and disseminate information relating to air quality and pollution and the prevention, control, supervision, and abatement thereof. Annually, States develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR Parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[18] On June 26, 2013 with an addendum on August 27, 2013, Mississippi submitted its monitoring network plan to EPA, which was approved on November 22, 2013. Mississippi's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2013–0270. EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for the ambient air quality monitoring and data system requirements related to the 2008 Lead NAAQS.

3. 110(a)(2)(C): *Program for enforcement, prevention of significant deterioration (PSD) and new source review (NSR):* In this action, EPA is proposing to approve Mississippi's infrastructure SIP submission for the 2008 Lead NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that provides for enforcement of emission limits and control measures, the regulation of minor sources and modifications, and the enforcement of oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) emission limits to assist in the protection of air quality in nonattainment, attainment or unclassifiable areas. To meet these obligations, Sections APC–S–5—*Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality* and APC–S–2—*Permit Regulation for the Construction and/or Operation of Air Emissions Equipment,* both of which pertain to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable.

Enforcement: MDEQ's above-described, SIP-approved regulations provide for enforcement of VOC and NO_X emission limits and control measures and construction permitting for new or modified stationary sources.

Preconstruction PSD permitting for major sources: With respect to Mississippi's infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(C), EPA is not proposing any action today regarding these requirements and instead will act on this portion of the submission in a separate action.

Regulation of minor sources and modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern the minor source pre-construction program that regulates emissions of the 2008 Lead NAAQS. Mississippi has a SIP-approved minor NSR permitting program at APC–S–2, I. D—*Permitting Requirements* that regulates the preconstruction permitting of modifications and construction of minor stationary sources.

EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for enforcement of control measures and regulation of minor sources and modifications related to the Lead NAAQS.

4. 110(a)(2)(D)(i) and (ii): *Interstate and international transport provisions:* Section 110(a)(2)(D)(i) has two components; 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(II). Each of these components have two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4''). Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

110(a)(2)(D)(i)(I)—prongs 1 and 2: Section 110(a)(2)(D)(i) requires infrastructure SIP submissions to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment in, or interfering with maintenance of the NAAQS in another state. The physical properties of lead prevent lead emission from experiencing that same travel or formation phenomena as $PM_{2.5}$ and ozone for interstate transport as outlined in prongs 1 and 2. More specifically, there is a sharp decrease in lead concentrations, at least in the coarse fraction, as the distance from a lead source increases. EPA believes that the

[17] On February 22, 2013, EPA published a proposed action in the **Federal Register** entitled, ''State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction; Proposed Rule.'' 78 FR 12459.

[18] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR Part 58.

requirements of prongs 1 and 2 can be satisfied through a state's assessment as to whether a lead source located within its State in close proximity to a state border has emissions that contribute significantly to the nonattainment or interfere with maintenance of the NAAQS in the neighboring state. For example, EPA's experience with the initial Lead designations suggest that sources that emit less than 0.5 tpy generally appear unlikely to contribute significantly to the nonattainment in another state.[19] Mississippi has no Lead sources that have emissions of Lead over 0.5 tons per year (tpy). Therefore, EPA has made the preliminary determination that Mississippi's SIP meets the requirements of section 110(a)(2)(D)(i)(I).

110(a)(2)(D)(i)(II)—prong 3: With respect to Mississippi's infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(D)(i)(II), EPA is not proposing any action today regarding these requirements and instead will act on this portion of the submission in a separate action.

110(a)(2)(D)(i)(II)—prong 4: With regard to section 110(a)(2)(D)(i)(II), the visibility sub-element, referred to as prong 4, significant impacts from lead emissions from stationary sources are expected to be limited to short distances from the source. The 2011 Lead Infrastructure SIP Guidance notes that it is anticipated that lead emissions will contribute only negligibly to visibility impairment in Class I areas. Lead stationary sources in Mississippi are located distances from Class I areas such that visibility impacts are negligible. Mississippi's infrastructure SIP submittal cites its SIP revision regarding the Regional Haze Program Requirements (Appendix R) to satisfy its obligations under prong 4 of section 110(a)(2)(D)(i). Mississippi also notes that the States does not have any lead sources with emissions equal to or greater than 0.5 tons per year. Therefore, EPA has preliminarily determined that the Mississippi SIP meets the relevant visibility requirements of prong 4 of section 110(a)(2)(D)(i).

110(a)(2)(D)(ii): *Interstate and International transport provisions:* Section APC–S–2—*Permit Regulations for the Construction and/or Operation of Air Emissions Equipment,* provides how MDEQ will notify neighboring states of potential impacts from new or modified sources consistent with the requirements of 40 CFR 51.166. EPA is unaware of any pending obligations for the state of Mississippi pursuant to sections 115 and 126. EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for insuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2008 Lead NAAQS.

5. 110(a)(2)(E): Adequate personnel, funding, and authority: Section 110(a)(2)(E) requires that each implementation plan provide (i) necessary assurances that the State will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the State comply with the requirements respecting State Boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve Mississippi's SIP as meeting the requirements of sections 110(a)(2)(E)(i)and (iii). EPA is proposing to approve in part and disapprove in part Mississippi's SIP respecting section 110(a)(2)(E)(ii). EPA's rationale for today's proposals respecting each section of 110(a)(2)(E) is described in turn below.

To satisfy the requirements of sections 110(a)(2)(E)(i) and (iii), Mississippi's infrastructure SIP submission describes that *Mississippi Code Title 49,* Sections 49–17–17(d) and 49–17–17(h) (Appendix A–9), provide MDEQ with the authority to accept and administer laws and grants from the federal government and from other sources, public and private, for carrying out any of its functions, including its responsibility to implement its SIP. As further evidence of the adequacy of MDEQ's resources with respect to sub-elements (i) and (iii), EPA submitted a letter to Mississippi on March 28, 2014, outlining 105 grant commitments and the current status of these commitments for fiscal year 2013. The letter EPA submitted to Mississippi can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2013–0270. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. Mississippi satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2013, therefore Mississippi's grants were finalized and closed out. EPA has made the preliminary determination that Mississippi has adequate resources for implementation of the 2008 Lead NAAQS.

To meet the requirements of section 110(a)(2)(E)(ii), states must comply with the requirements respecting state boards pursuant to section 128 of the Act. Section 128 of the CAA requires that states include provisions in their SIP to address conflicts of interest for state boards or bodies that oversee CAA permits and enforcement orders and disclosure of conflict of interest requirements. Specifically, CAA section 128(a)(1) necessitates that each SIP shall require that at least a majority of any board or body which approves permits or enforcement orders shall be subject to the described public interest service and income restrictions therein. Subsection 128(a)(2) requires that the members of any board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to conflict of interest disclosure requirements.

To meet its section 110(a)(2)(E)(ii) obligations for the 2008 Lead NAAQS, Mississippi's infrastructure SIP submission cites the State's revision to its SIP to meet the requirements of CAA section 128 for the 1997 and 2006 $PM_{2.5}$ NAAQS, which was submitted to EPA on October 11, 2012.[20] Based upon the review of the laws and provisions contained in MDEQ's October 11, 2012, SIP revision, which have since been incorporated into the SIP, EPA is proposing to approve the section 110(a)(2)(E)(ii) portions of the infrastructure SIP submission as it relates to the public interest requirements of section 128(a)(1) and the conflict of interest disclosure provisions of section 128(a)(2). EPA is also proposing to disapprove the section 110(a)(2)(E)(ii) portion of the infrastructure SIP submission as it pertains to compliance with the significant portion of income requirement of section 128(a)(1) for the 2008 8-hour ozone NAAQS.[21]

With respect to the public interest requirement of section 128(a)(1) and the adequate disclosure of conflicts of interest requirement of section 128(a)(2),

[19] EPA's experience also suggests that sources located more than two miles from the state border generally appear unlikely to contribute significantly to the nonattainment in another state.

[20] Mississippi's October 11, 2012, infrastructure SIP submission only addressed compliance with 110(a)(2)(E)(ii) respecting CAA section 128 requirements. On May 8, 2014, Mississippi clarified to EPA that the provisions submitted in the October 11, 2012, SIP submission to comply with 110(a)(2)(E)(ii) for the $PM_{2.5}$ NAAQS infrastructure SIP were also intended to cover the 2008 Lead and 2008 8-hour ozone NAAQS infrastructure SIP.

[21] EPA took similar action with respect to Mississippi's section 110(a)(2)(E)(ii) submission for the 1997 and 2006 $PM_{2.5}$ NAAQS.

EPA has previously found these requirements to be satisfied by the existing provisions in Mississippi's SIP. *See* 78 FR 20793.

With respect to the significant portion of income requirement of section 128(a)(1), the provisions included in the October 11, 2012 infrastructure SIP submission did not preclude at least a majority of the members of the Mississippi Board from receiving a significant portion of their income from persons subject to permits or enforcement orders issued by the Mississippi Boards. While the submitted laws and provisions preclude members of the Mississippi Boards from certain types of income (e.g., contracts with State or political subdivisions thereof, or income obtained through the use of his or her public office or obtained to influence a decision of the Mississippi Boards), they do not preclude a majority of members of the Mississippi Boards from deriving any significant portion of their income from persons subject to permits or enforcement orders so long as that income is not derived from one of the proscribed methods described in the laws and provisions submitted by the State. Because a majority of board members may still derive a significant portion of income from persons subject to permits or enforcement orders issued by the Mississippi Boards, the Mississippi SIP does not meet the section 128(a)(1) majority requirements respecting significant portion of income, and as such, EPA is today proposing to disapprove the State's 110(a)(2)(E)(ii) submission as it relates only to this portion of section 128(a)(1).

Accordingly, EPA is proposing to approve the section 110(a)(2)(E)(ii) submission as it relates to the public interest requirements of section 128(a)(1) and the conflict of interest disclosure provisions of section 128(a)(2), and is proposing to disapprove Mississippi's section 110(a)(2)(E)(ii) submission as it pertains to compliance with the significant portion of income requirements of section 128(a)(1) for the 2008 Lead NAAQS.

6. 110(a)(2)(F): *Stationary source monitoring system:* Mississippi's infrastructure SIP submission describes how the State establishes requirements for compliance testing by emissions sampling and analysis, and for emissions and operation monitoring to ensure the quality of data in the State. These requirements are met by Section APC–S–2—*Permit Regulations for the Construction and/or Operation of Air Emissions Equipment* and *Mississippi Code 49,* Section 49–17–21 (Appendix A–9), which provides MDEQ with the authority to require the maintenance of records related to the operation of air contaminant sources and provides any authorized representative of the Mississippi Commission on Environmental Quality with authority to examine and copy any such records or memoranda pertaining to the operation of such contaminant source. Section APC–S–2 also lists the requirements for compliance testing which is included in any MDEQ air pollution air permit. Section APC–S–1 authorizes source owners or operators to use any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, for the purpose of submitting compliance certifications. Accordingly, EPA is unaware of any provision preventing the use of credible evidence in the Mississippi SIP.

Additionally, Mississippi is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and their associated precursors—NO_X, sulfur dioxide, ammonia, lead, carbon monoxide, particulate matter, and VOCs. Many states also voluntarily report emissions of hazardous air pollutants. Mississippi made its latest update to the 2012 NEI on January 9, 2014. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for the stationary source monitoring systems related to the 2008 Lead NAAQS. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(F).

7. 110(a)(2)(G): *Emergency episodes:* This section of the CAA requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. Mississippi cites Section APC–S–3—*Mississippi Regulations for the Prevention of Air Pollution Emergency Episodes* and *Mississippi Code Title 49,* 49–17–27 (Appendix A–9), as providing the State with the authority to identify air pollution emergency events and to implement preplanned abatement strategies in response to such events. This regulation and statute further prevent the excessive buildup of air pollutants during air pollution episodes. EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for emergency powers related to the 2008 Lead NAAQS.

8. 110(a)(2)(H): *Future SIP revisions:* Mississippi's infrastructure SIP submission cites *Mississippi Code Title 49,* Section 49–17–17(h) (Appendix A–9), as providing MDEQ with the authority to adopt air quality rules and revise SIPs as needed to attain or maintain the NAAQS in the State. The infrastructure SIP submission as cites this statute as providing MDEQ with the statutory authority to revise the SIP to accommodate changes to the NAAQS and revise the SIP if the EPA Administrator finds the plan to be substantially inadequate to attain the NAAQS. Accordingly, EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 2008 Lead NAAQS when necessary.

9. 110(a)(2)(J): *Consultation with Government Officials, Public Notification, and PSD and Visibility Protection:* EPA is proposing to approve Mississippi's infrastructure SIP for the 2008 Lead NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that provides for meeting the applicable consultation requirements of section 121, the public notification requirements of section 127, and visibility protection requirements of part C of the Act. With respect to Mississippi's infrastructure SIP submission related to the preconstruction PSD permitting, EPA is not proposing any action today regarding these requirements and instead will act on these portions of the submission in a separate action.

Consultation with government officials (121 Consultation): This requirement is met through Section APC–S–5—*Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality* and *Mississippi Code Title 49,* Section 49–17–17(c) (Appendix A–9), along with

the State's SIP revisions, such as the Regional Haze SIP revision, which allows for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers whose jurisdictions might be affected by SIP development activities. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate that the State meets applicable requirements related to consultation with government officials for the 2008 Lead NAAQS when necessary.

Public notification (127 Public Notification): These requirements are met through Section APC–S–3—*Mississippi Regulations for the Prevention of Air Pollution Emergency Episodes,* which requires that MDEQ notify the public of any air pollution alert, warning, or emergency. The MDEQ Web site also provides air quality summary data, air quality index reports, and links to more information regarding public awareness of measures that can prevent such exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2008 Lead NAAQS when necessary.

Visibility protection: Proposed approval of Mississippi's implementation plan respecting prong 4 of 110(a)(2)(D)(i)(II) requires that the SIP contain adequate provisions to protect visibility (referred to as ''prong 4'') in Mississippi. The 2011 Lead Infrastructure SIP Guidance notes that EPA does not generally treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. EPA recognizes that states are subject to visibility protection and regional haze program requirements under Part C of the Act (which includes sections 169A and 169B). However, in the event of the establishment of a new primary NAAQS, the visibility protection and regional haze program requirements under part C do not change. Thus, EPA concludes there are no new applicable visibility protection obligations under section 110(a)(2)(J) as a result of the 2008 Lead NAAQS, and as such, EPA is proposing to approve section 110(a)(2)(J) of MDEQ's infrastructure SIP submission as it relates to visibility protection.

10. 110(a)(2)(K): Air quality and modeling/data: Sections APC–S–2, Section V.*B.—Permit Regulation for the Construction and/or Operation of Air Emissions Equipment* and APC–S–5—*Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality,* specify that required air modeling be conducted in accordance with 40 CFR Part 51, Appendix W ''Guideline on Air Quality Models,'' as incorporated into the Mississippi SIP. These standards demonstrate that Mississippi has the authority to perform air quality monitoring and to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 Lead NAAQS. Additionally, Mississippi supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the Lead NAAQS, for the southeastern states. Taken as a whole, Mississippi's air quality regulations and practices demonstrate that MDEQ has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2008 Lead NAAQS. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 2008 Lead NAAQS when necessary.

11. 110(a)(2)(L): Permitting fees: This element necessitates that the SIP require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) The reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

To satisfy these requirements, Mississippi's infrastructure SIP submission cites *Mississippi Code Title 49,* Section 49–2–9(c) (Appendix A–9), which authorizes MDEQ to apply for, receive, and expend Federal or state funds in order to operate its air programs; *Mississippi Code Title 49,* Section 49–17–30 (Appendix A–9), which provides for the assessment of title V permit fees to cover the reasonable cost of reviewing and acting upon permitting air permitting activities in the state including title V, PSD and NNSR permits; and, *Mississippi Code Title 49,* Section 49–17–14 (Appendix A–9), which allows MDEQ to expend or utilize monies in the Mississippi Air Operating Permit Program Fee Trust Fund to pay all reasonable direct and indirect costs associated with the development and administration of the title V program including, but not limited to, the reasonable costs of performing activities related to the title V program. These funding mechanisms reflect the reasonable cost of review, approval, implementation, and enforcement of the state's air permitting program. The title V operating program fees also cover the reasonable cost of implementation and enforcement of PSD permits after they have been issued. EPA has made the preliminary determination that Mississippi adequately provides for permitting fees related to the Lead NAAQS, when necessary.

12. 110(a)(2)(M): *Consultation/participation by affected local entities: Mississippi Code Title 49,* Sections 49–17–17(c) and 49–17–19(b) (Appendix A–9), requires that MDEQ notify the public of an application, preliminary determination, the activity or activities involved in the permit action, any emissions change associated with any permit modification, and the opportunity for comment prior to making a final permitting decision. Additionally, MDEQ works closely with local political subdivisions during the development of its Transportation Conformity SIP and Regional Haze SIP. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate consultation with affected local entities related to the 2008 Lead NAAQS when necessary.

V. Proposed Action

With the exception of the PSD permitting requirements for major sources of section 110(a)(2)(C), (D)(i)(II) and (J) and the state board majority requirements respecting significant portion of income of section 110(a)(2)(E)(ii), EPA is proposing to approve that MDEQ's infrastructure SIP submission, submitted November 17, 2011, for the 2008 Lead NAAQS has met the above-described infrastructure SIP requirements. EPA is proposing to disapprove in part section 110(a)(2)(E)(ii) of Mississippi's infrastructure SIP submission because a majority of board members may still derive a significant portion of income from persons subject to permits or enforcement orders issued by the Mississippi Boards, therefore, its current SIP does not meet the section 128(a)(1) majority requirements respecting significant portion of income. This

proposed approval in part and disapproval in part, does not include sections 110(a)(2)(C), prong 3 of D(i) and (J). EPA will address these portions of Mississippi's infrastructure SIP submission for the 2008 Lead NAAQS in a separate action.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of a CAA Part D Plan or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP call) starts a sanctions clock. The portion of section 110(a)(2)(E)(ii) provisions (the provisions being proposed for disapproval in today's notice) were not submitted to meet requirements for Part D or a SIP call, and therefore, if EPA takes final action to disapprove this submittal, no sanctions will be triggered. However, if this disapproval action is finalized, that final action will trigger the requirement under section 110(c) that EPA promulgate a federal implementation plan (FIP) no later than 2 years from the date of the disapproval unless the State corrects the deficiency, and EPA approves the plan or plan revision before EPA promulgates such FIP.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed 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 proposed action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, and Recordkeeping requirements.

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

Dated: November 3, 2014.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2014–27268 Filed 11–17–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 13–184; FCC 14–99]

Modernization of the Schools and Libraries ''E-Rate'' Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, correction.

SUMMARY: This document corrects errors in the **SUPPLEMENTARY INFORMATION** section of a **Federal Register** document regarding the Commission taking major steps to modernize the E-rate program (more formally known as the schools and libraries universal service support mechanism). The Commission sought further comment on meeting the future funding needs of the E-rate program in light of the goals it adopted for the program in an accompanying Report and Order. The Commission acknowledges that modernizing a program of this size and scope cannot be accomplished at once and so it will continue to seek public input and additional ideas to bring 21st Century broadband to libraries and schools throughout the country. The document was published in the **Federal Register** on August 19, 2014.

DATES: The proposed rule published August 19, 2014 (79 FR 49036) is corrected as of November 18, 2014.

FOR FURTHER INFORMATION CONTACT: James Bachtell or Kate Dumouchel, Wireline Competition Bureau, Telecommunications Access Policy Division, at (202) 418–7400 or TTY: (202) 418–0484.

Correction

In proposed rule FR Doc. 2014–18936, beginning on page 49036 (August 19, 2014), make the following corrections in the **SUPPLEMENTARY INFORMATION** section.

1. On page 49037, in the first column, in paragraph 3, thirtieth line, remove the word ''programs'' and add in its place the word ''program's.''

2. On page 49039, in the third column, in paragraph 19, fifth line, remove the words ''*E-rate Modernization Order''* and add in its place the words ''*Report and Order.''*

3. On page 49040, in the first column, in paragraph 22, remove the word ''5000'' and add in its place the word ''5,000.''

4. On page 49041, in the second column, in paragraph 33, twelfth line, remove the word ''we.''

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–25522 Filed 11–17–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2011–0024; 4500030113]

RIN 1018–AY98

Endangered and Threatened Wildlife and Plants; Endangered Species Status for the Northern Long-Eared Bat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period for our October 2, 2013, proposed rule to list the northern long-eared bat (*Myotis septentrionalis*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). We are taking this action to notify the public of new information that was supplied to us by, or on behalf of, State agencies within the range of the species. This reopening of the comment period will allow the public to provide comments on our proposed rule in light of that new information. We also are notifying the public that we have scheduled an informational meeting followed by a public hearing on the proposed rule. Comments previously submitted on the proposal need not be resubmitted, as they are already incorporated into the public record and will be fully considered in our final determination.

DATES: The comment period for the proposed rule published October 2, 2013 (78 FR 61046), is reopened. *Written comments:* We request that comments on the proposal be submitted on or before December 18, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

Public hearing: We will hold an informational meeting followed by a public hearing in Sundance, Wyoming, on December 2, 2014. The informational meeting will be held from 6:00 p.m. to 7:00 p.m., followed by a public hearing from 7:00 p.m. to 8:00 p.m. Please direct all requests for interpreters, close captioning, or other accommodation to the Twin Cities Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**) by 5:00 p.m. on November 15, 2014.

ADDRESSES: *Document availability:* You may obtain copies of the proposed rule and the information provided to the Service by the State agencies on the Internet at *http://www.regulations.gov* at Docket No. FWS–R5–ES–2011–0024, or by mail from the Twin Cities Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written comments: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter Docket No. FWS–R5–ES–2011–0024, which is the docket number for this rulemaking. You may submit a comment by clicking on ''Comment Now!'' Please ensure that you have found the correct rulemaking before submitting your comment.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R5–ES–2011–0024; Division of Policy and Directives Management; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Requested section, below, for more information).

Public hearing: We will hold a public hearing in Sundance, Wyoming in the Community Room at the Crook County Courthouse Basement, 309 Cleveland Street.

FOR FURTHER INFORMATION CONTACT: Peter Fasbender, Field Supervisor, U.S. Fish and Wildlife Service, Twin Cities Ecological Services Field Office, 4101 American Boulevard East, Bloomington, MN 55425; telephone 612–725–3548; or facsimile 612–725–3609. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from the proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned Federal and State agencies, the scientific community, or any other interested party concerning the proposed rule. We particularly seek comments concerning:

(1) The northern long-eared bat's biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Any information on the biological or ecological requirements of the northern long-eared bat, and ongoing conservation measures for the species and its habitat.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and regulations that may be addressing those threats.

(4) Current or planned activities in the areas occupied by the species and possible impacts of these activities on this species.

(5) Additional information regarding the threats to the northern long-eared bat under the five listing factors, which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; and

(e) Other natural or manmade factors affecting its continued existence.

(6) The reasons why areas should or should not be designated as critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including the possible risks or benefits of designating critical habitat, including risks associated with publication of maps designating any area on which this species may be located, now or in the future, as critical habitat.

(7) The following specific information on:

(a) The amount and distribution of habitat for the northern long-eared bat;

(b) What areas, that are currently occupied and that contain the physical and biological features essential to the conservation of this species, should be included in a critical habitat designation and why;

(c) Special management considerations or protection that may be needed for the essential features in potential critical habitat areas, including managing for the potential effects of climate change;

(d) What areas not occupied at the time of listing are essential for the conservation of this species and why;

(e) The amount of forest removal occurring within known summer habitat for this species;

(f) Information on summer roost habitat requirements that are essential for the conservation of the species and why; and

(g) Information on the features and requirements of the species' winter habitat (hibernacula).

(8) Information on the projected and reasonably likely impacts of changing environmental conditions resulting from climate change on the species and its habitat.

(9) Information on the data and reports submitted to the Service by affected States and how that information

relates to our determination of whether the northern long-eared bat is an endangered or a threatened species.

If you previously submitted comments or information on the October 2, 2013, proposed rule (78 FR 61046), please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in our final determination. Our final determination concerning the proposed rulemaking will take into consideration all written comments and any information we receive.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.* Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Twin Cities Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R5–ES–2011–0024, or by mail from U.S. Fish and Wildlife Service, Twin Cities Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

On October 2, 2013, we published a proposed rule (78 FR 61046) to list the northern long-eared bat as an endangered species under the Act. That proposal had a 60-day comment period, ending December 2, 2013. On December 2, 2013, we extended the proposal's comment period for an additional 30 days, ending January 2, 2014 (78 FR 72058). On June 30, 2014, we announced a 6-month extension of the final determination of whether to list the northern long-eared bat as an endangered species, and we reopened the comment period on the proposal for 60 days, ending August 29, 2014 (79 FR 36698). We will publish a listing determination for the northern long-eared bat on or before April 2, 2015. For a description of previous Federal actions concerning the northern long-eared bat, please refer to the October 2, 2013, proposed listing rule (78 FR 61046).

Since the publication of the 6-month extension (79 FR 36698, June 30, 2014), we have received additional information from multiple State agencies within the range of the northern long-eared bat. We are reopening the comment period on our proposal to list the northern long-eared bat as an endangered species for 30 days (see **DATES**) to allow the public an opportunity to review that information and provide comment on our proposal in light of that new information.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 12, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–27407 Filed 11–17–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 79, No. 222
Tuesday, November 18, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Appointment of Members to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Appointment of members.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, the United States Department of Agriculture announces the appointment of members made by the Secretary of Agriculture to fill 8 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Appointments by the Secretary of Agriculture are for 2, or 3 year terms effective October 1, 2014.

ADDRESSES: National Agricultural Research, Extension, Education, and Economics Advisory Board, Research Extension, Education, and Economics Advisory Board Office, Room 332A, Whitten Building, U.S. Department of Agriculture; STOP 3401; 1400 Independence Avenue SW., Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: Michele Esch, Executive Director, Research, Education, and Economics Advisory Board Office, Room 332A, Whitten Building, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 3401, Washington, DC 20250–2255; telephone: 202–720–3684; fax: 202–720–6199; email: *Michele.esch@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 802 of the Federal Agricultural Improvement and Reform Act of 1996 authorized the creation of the National Agricultural Research, Extension, Education, and Economics Advisory Board. The Board is composed of 25 members, each representing a specific category related to agriculture. The Board was first appointed in September 1996 and at the time one-third of the original members were appointed for one, two, and three-year term, respectively. Due to the staggered appointments, the terms for 8 of the 25 members expired September 30, 2014.

Each member is appointed by the Secretary of Agriculture to a specific category on the Board, including farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, non-land grant college or university with a historic commitment to research in the food and agricultural sciences, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. Appointees by category of the 8 appointments are as follows:

Category B. Farm Cooperatives: James P. Goodman, Owner/Farmer, Northwood Farm, Wonewoc, WI;

Category D. Plant Commodity Producer: Chalmers Carr III, Ridge Spring, SC;

Category E. National Aquaculture Association: Jeremy Liley, President/Aquatic Biologist, Liley Fisheries and Aquatic Consulting, Windsor, CO;

Category H. National Food Science Organization: Mark McLellan, Vice President of Research & Dean of the School of Graduate Studies, Utah State University, Logan, UT;

Category J. National Nutritional Science Society: Adriana Campa, Associate Professor of Nutrition, Florida International University, Miami, FL; Category K. 1862 Land-Grant Colleges and Universities: Milo Shult, Vice President for Agriculture Emeritus, University of Arkansas System, Doss, TX;

Category M. 1994 Equity in Education land-Grant Institutions: Chad Waukechon, Vice President of Green Bay/Oneida Campus, College of Menominee Nation, Keshena, WI; and

Category Y. National Social Science Association: Dawn Thilmany, Professor, Colorado State University, Dept. of Agriculture and Resource Economics, Fort Collins, CO.

Done at Washington, DC this 7th day of November 2014.

Catherine E. Woteki,

Under Secretary, Research, Education, and Economics.

[FR Doc. 2014–27199 Filed 11–17–14; 8:45 am]

BILLING CODE 3410–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Central Valley Angler Survey.

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents: 11,447.

Average Hours per Response: Telephone screener, 5 minutes; mail survey, 25 minutes.

Burden Hours: 1,579.

Needs and Uses: This request is for a new information collection.

The National Marine Fisheries Service (NMFS) plans to collect data to increase the agency's understanding of the fishing patterns, preferences, and expenditures of anglers who fish in the rivers of California's Central Valley. NMFS has engaged in major habitat restoration in the Central Valley to promote recovery of three ESA-listed salmonids (Sacramento River winter Chinook, Central Valley spring Chinook, Central Valley steelhead). The survey is intended to estimate the economic impact of the Central Valley recreational fishery and potential recreational benefits associated with habitat restoration such as improved fish passage. Information to be collected pertains to anglers' recreational fishing patterns, expenditures and demographics, and factors affecting trip frequency and location (e.g., travel distance, amenities, landscape features as well as quality of fishing). The data collected will provide NMFS, as well as state agency partners such as the California Department of Fish and Wildlife, with information useful for

understanding the economic importance of Central Valley fisheries and potential recreational benefits associated with salmonid habitat restoration.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: November 13, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–27239 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Progress Report: Cooperative Minimization of the Incidental Catch of Pacific Halibut.

OMB Control Number: 0648–0697.

Form Number(s): None.

Type of Request: Regular (revision of a currently approved information collection).

Number of Respondents: 5.

Average Hours per Response: 40.

Burden Hours: 200.

Needs and Uses: This request is for revision of an existing information collection.

During its February 2014 meeting, the North Pacific Fisheries Management Council (Council) requested that Bering Sea and Aleutian Islands Management Area (BSAI) groundfish sectors (American Fisheries Act (AFA) Catcher/processor, AFA Catcher Vessel, Amendment 80, Freezer Longline Cooperative, and Community Development Quota) report (at the June Council meeting) on the progress of voluntary, non-regulatory actions implemented and recorded in their cooperative and/or inter-cooperative agreements to minimize halibut Prohibited Species Catch (PSC) through halibut avoidance, individual accountability, and use of incentives.

During its June 2014 meeting, the Council requested additional voluntary, non-regulatory information regarding the use of halibut PSC and halibut discards in the directed halibut fishery from these same five groundfish fishing sectors on actions taken to reduce halibut mortality and to report the effectiveness of those actions in absolute reductions in halibut mortality. These reports are to be provided to the Council at the February 2015 Council meeting.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: November 12, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–27207 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Individual Fishing Quota (IFQ) Programs.

OMB Control Number: 0648–0551.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 1,850.

Average Hours per Response: Wreckfish share transfer, 15 minutes; IFQ online account renewal, 12 minutes; dealer landing transaction report, 6 minutes; notification of landing, 5 minutes; cost recovery fee submission, landing correction form, IFQ share transfer, IFQ allocation transfer, 3 minutes each; close account, 2 minutes.

Burden Hours: 1,760.

Needs and Uses: This request is for an extension of a currently approved information collection.

The Magnuson-Stevens Fishery Conservation and Management authorizes the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council to prepare and amend fishery management plans for any fishery in waters under their jurisdictions. The National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) manages three individual fishing quota (IFQ)/individual transferable quota (ITQ) programs in the Southeast Region. In 1992, an ITQ program for commercial wreckfish in the South Atlantic EEZ was implemented through Amendment 5 to the Fishery Management Plan for the Snapper-Grouper Fishery in the South Atlantic Region (South Atlantic Snapper-Grouper FMP). In 2007, a commercial red snapper IFQ program was implemented through Amendment 26 to the Fishery Management Plan for Gulf Reef Fish Resources in the Gulf of Mexico) Gulf Reef Fish FMP. In 2010, a commercial grouper and tilefish IFQ program was implemented through Amendment 29 to the Gulf Reef Fish FMP.

The collection of information addresses IFQ share certificate and allocation debits and transfers, as well as collection of landings information necessary to operate, administer, and review management of commercial red snapper, and grouper/tilefish in the Gulf of Mexico and wreckfish in the South Atlantic.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: November 13, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–27237 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of National Advisory Council on Innovation and Entrepreneurship Meeting

AGENCY: Economic Development Administration, Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The National Advisory Council on Innovation and Entrepreneurship (NACIE) will hold an organizational meeting on Friday, December 5, 2014. The meeting will be held from 8:30 a.m.–10:30 a.m. Eastern Standard Time (EST) and will be open to the public. The meeting will take place at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230.

DATES: December 5, 2014. Time: 8:30 a.m.–10:30 a.m. EST.

ADDRESSES: U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The Council was chartered on November 10, 2009 to advise the Secretary of Commerce on matters related to innovation and entrepreneurship in the United States. NACIE's overarching focus is recommending transformational policies to the Secretary that will help U.S. communities, businesses, and the workforce become more globally competitive. The Council will operate as an independent entity within the Office of Innovation and Entrepreneurship (OIE), which is housed within the U.S. Commerce Department's Economic Development Administration. NACIE members are a diverse and dynamic group of successful entrepreneurs, innovators, and investors, as well as leaders from nonprofit organizations and academia.

The purpose of this organizational meeting is to discuss the Council's planned work initiatives in three focus areas: Workforce/talent, entrepreneurship, and innovation. The final agenda will be posted on the NACIE Web site at *http://www.eda.gov/oie/nacie/* prior to the meeting. Any member of the public may submit pertinent questions and comments concerning the Council's affairs at any time before or after the meeting. Comments may be submitted to the Office of Innovation and Entrepreneurship at the contact information below. Those unable to attend the meeting in person but wishing to listen to the proceedings can do so through a conference call line 1–888–790–3143, passcode: 8465571. Copies of the meeting minutes will be available by request within 90 days of the meeting date.

FOR FURTHER INFORMATION CONTACT: Julie Lenzer Kirk, Office of Innovation and Entrepreneurship, Room 70003, 1401 Constitution Avenue NW., Washington, DC 20230; email: *NACIE@doc.gov;* telephone: 202–482–8001; fax: 202–273–4781. Please reference ''NACIE December 5, 2014'' in the subject line of your correspondence.

Dated: November 12, 2014.

Julie Lenzer Kirk,

Office of Innovation and Entrepreneurship.

[FR Doc. 2014–27251 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–81–2014]

Foreign-Trade Zone (FTZ) 114—Peoria, Illinois: Notification of Proposed Production Activity; Bell Sports, Inc. (Football Helmets), Rantoul, Illinois

Bell Sports, Inc. (Bell Sports) submitted a notification of proposed production activity to the FTZ Board for its facility in Rantoul, Illinois within FTZ Subzone 114F. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on November 7, 2014.

Bell Sports already has authority to produce certain sports equipment within Subzone 114F. The current request would add finished products and foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/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 Bell Sports from customs duty payments on the foreign status materials/components used in export production. On its domestic sales, Bell Sports would be able to choose the duty rates during customs entry procedures that apply to collectible football helmets (duty rate 0%) for the foreign status materials/components noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials/components sourced from abroad include: Decals; puff decals; mini- bows; clip-on ponytails; iron screws; 6mm screws; snap screws; t-nuts; and, hang tags (duty rate ranges from 0 to 7%). The request indicates that inputs classified under HTSUS Chapter 6307.90 will be admitted to the zone in privileged foreign status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 29, 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 Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *christopher.kemp@trade.gov* or (202) 482–0862.

Dated: November 12, 2014.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2014–27294 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–805]

Stainless Steel Bar From Spain: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel bar (SSB) from Spain. The period of review (POR) is March 1, 2013, through February 28, 2014. The review covers one producer/exporter of the subject merchandise, Gerdau Aceros Especiales Europa, S.L. (Gerdau). We preliminarily determine that Gerdau had no shipments of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Effective November 18, 2014.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten,

AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1690, and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is SSB. The term SSB with respect to the order means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process. Except as specified above, the term does not include stainless steel semi-finished products, cut-length flat-rolled products (*i.e.,* cut-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to the order is currently classifiable under subheadings 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, 7222.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[1]

Preliminary Determination of No Shipments

We published in the **Federal Register** a notice of initiation of this administrative review of the antidumping duty order on SSB from Spain covering one company, Gerdau.[2] On May 1, 2014, we requested the U.S. Customs and Border Protection (CBP) data for all entries of SSB by Gerdau during the POR and found that there were no entries.[3] We received a timely submission from Gerdau reporting that it did not have sales, shipments, or entries of the subject merchandise during the POR.[4] We transmitted a ''No-Shipment Inquiry'' to CBP regarding this company.[5] Pursuant to this inquiry, we received no notification from CBP of entries of subject merchandise from Gerdau. Accordingly, based on record evidence, we preliminarily determine that Gerdau had no shipments of subject merchandise during the POR. Further, consistent with our practice, we find that it is not appropriate to rescind the review with respect to Gerdau, but rather to complete the review and issue appropriate instructions to CBP based on the final results of this review.[6]

Public Comment

Interested parties may submit cases briefs no later than 30 days after the date of publication of this notice.[7] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[8] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS).[10] An electronically-filed request must be received successfully in its entirety by IA ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[11] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative 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

For the final results, if we continue to find that Gerdau had no shipments of subject merchandise, following issuance of the final results of review, for entries of subject merchandise during the POR produced by Gerdau for which this company did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[12]

We intend to issue instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Gerdau will remain unchanged from the rate assigned to the company in the most recently completed review of that company; (2) for other manufacturers and exporters covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is,

[1] The HTSUS numbers provided in the scope changed since the publication of the order. *See Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar From Spain,* 60 FR 11656 (March 2, 1995).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 79 FR 24398 (April 30, 2014).

[3] *See* Memorandum to the file entitled ''Stainless Steel Bar from Spain—Release of U.S. Customs and Border Protection (CBP) Data'' dated May 9, 2014.

[4] *See* Gerdau's letter entitled ''Stainless Steel Bar From Spain; Entry of appearance and notification of no shipments'' dated May 10, 2014.

[5] *See* CBP message 4140301 dated May 20, 2014; *see also* correction message 4160304 dated June 9, 2014.

[6] *See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[7] *See* 19 CFR 351.309(c)(ii).

[8] *See* 19 CFR 351.309(d).

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] IA ACCESS is available to registered users at *http://iaaccess.trade.gov.*

[11] *See* 19 CFR 351.310(c).

[12] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 25.77 percent, the all-others rate established in the investigation.[13] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: November 7, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–27293 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Board of Overseers of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Board of Overseers of the Malcolm Baldrige National Quality Award (Board) will meet in open session on Tuesday, December 2, 2014. The purpose of this meeting is to review and discuss the work of the private sector contractor, which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Malcolm Baldrige National Quality Award (Award), and information received from NIST and from the Chair of the Judges' Panel of the Malcolm Baldrige National Quality Award in order to make such suggestions for the improvement of the Award process as the Board deems necessary. Details on the agenda are noted in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting will be held on Tuesday, December 2, 2014 from 8:30 a.m. Eastern Time until 3 p.m. Eastern Time. The meeting will be open to the public.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, 100 Bureau Drive, Building 101, Lecture Room A, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, telephone number (301) 975–2360, or by email at *robert.fangmeyer@nist.gov*.

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 3711a(d)(2)(B) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Board will meet in open session on Tuesday, December 2, 2014 from 8:30 a.m. Eastern Time until 3 p.m. Eastern Time. The Board is composed of eleven members selected for their preeminence in the field of organizational performance excellence and appointed by the Secretary of Commerce. The Board consists of a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Board includes members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members are also chosen who have broad experience in for-profit and nonprofit areas. The purpose of this meeting is to review and discuss the work of the private sector contractor, which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Award, and information received from NIST and from the Chair of the Judges' Panel of the Malcolm Baldrige National Quality Award in order to make such suggestions for the improvement of the Award process as the Board deems necessary. 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. The agenda will include: Report from the Judges Panel of the Malcolm Baldrige National Quality Award, Baldrige Program Business Plan Status Report, Baldrige Foundation Fundraising Update, Products and Services Update, and Recommendations for the NIST Director. The agenda may change to accommodate Board business. The final agenda will be posted on the NIST Baldrige Performance Excellence Web site at *http://www.nist.gov/baldrige/community/overseers.cfm*. The meeting will be open to the public.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs are invited to request a place on the agenda. On December 2, 2014 approximately one-half hour will be reserved in the afternoon for public comments, and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the Baldrige Web site at *http://www.nist.gov/baldrige/community/overseers.cfm*. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland, 20899–1020, via fax at 301–975–4967 or electronically by email to *nancy.young@nist.gov*.

All visitors to the National Institute of Standards and Technology site must pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Nancy Young no later than 5 p.m. Eastern Time, Tuesday, November 25, 2014 and she will provide you with instructions for admittance. Non-U.S. citizens must submit additional information and should contact Ms. Young for instructions. Ms. Young's email address is *nancy.young@nist.gov* and her phone number is (301) 975–2361. Also, please note that under the REAL ID Act of 2005 (P.L. 109–13), federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if issued by states that are REAL ID compliant or have an extension. NIST

[13] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Spain,* 59 FR 66931 (December 28, 1994).

also currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Ms. Young or visit: *http://www.nist.gov/public_affairs/visitor/*

Dated: November 12, 2014.

Mary H. Saunders,

Associate Director for Management Resources.

[FR Doc. 2014–27282 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Ocean and Atmospheric Administration

Proposed Information Collection; Comment Request; U.S. Caribbean Commercial Fishermen Census

AGENCY: National Ocean and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, 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.

DATES: Written comments must be submitted on or before January 20, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Juan J. Agar, (305) 361–4218 or *Juan.Agar@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

The National Marine Fisheries Service (NMFS) proposes to conduct a census of small scale fishermen operating in the United States (U.S.) Caribbean. The proposed socio-economic study will collect information on demographics, capital investment in fishing gear and vessels, fishing and marketing practices, economic performance, and miscellaneous attitudinal questions. The data gathered will be used for the development of amendments to fishery management plans which require descriptions of the human and economic environment and socio-economic analyses of regulatory proposals. The information collected will also be used to strengthen fishery management decision-making and satisfy various legal mandates under the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 et seq.), Executive Order 12866, Regulatory Flexibility Act, Endangered Species Act, and National Environmental Policy Act, and other pertinent statues.

II. Method of Collection

The socio-economic information will be collected through in-person, telephone and mail surveys.

III. Data

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 1,500.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 12, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–27214 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD615

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder, Scup, and Black Sea Bass Advisory Panel will hold a public meeting, jointly with the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panels.

DATES: The meetings will be held Wednesday, December 3, 2014 from 1:30 p.m. to 4:30 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option. Details on webinar registration and the telephone-only connection details are available at: *http://www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Council and Commission's Summer Flounder, Scup, and Black Sea Bass Advisory Panels will discuss recreational management measures for the upcoming fishing year. Summer flounder recreational measures will be discussed from 1:30 p.m. to 2:30 p.m., scup measures from 2:30 p.m. to 3:30 p.m., and black sea bass measures from 3:30 p.m. to 4:30 p.m.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid

should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: November 13, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–27235 Filed 11–17–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0151]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness OUSD(P&R), Federal Voting Assistance Program (FVAP), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* The Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 20, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Director, Federal Voting Assistance Program, ATTN: Kathleen McDonnell, 4800 Mark Center Drive, Mailbox 10, Alexandria, Virginia 22350–5000.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Write-In Absentee Ballot (FWAB), Standard Form 186 (SF–186); OMB Control Number 0704–0502.

Needs and Uses: The information collection requirement is necessary to fulfill the requirement of the Uniformed and Overseas Absentee Voting Act (UOCAVA), 46 U.S.C. 1973ff wherein the Secretary of Defense is to prescribe the Federal write-in absentee ballot for absent uniformed service voters and overseas voters in general elections for Federal office. The Department of Defense, Under Secretary of Defense (Personnel and Readiness), Federal Voting Assistance Program, revised the SF 186, Federal Write-In Absentee Ballot and SF 186A, Federal Write-In Absentee Ballot (Electronic) to comply with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Affected Public: Individuals or Households.

Annual Burden Hours: 300,000.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are UOCAVA citizens who desire to vote in a Federal election but did not receive an absentee ballot from their State of residency with enough time to vote and return it. The information provided by these citizens is used by the States to determine if the citizen is a resident of a jurisdiction within that State, has previously requested an absentee ballot (when applicable) and therefore eligible for the enclosed ballot to be counted. In States that allow the form to be used as a voter registration form, the information provided is used by the States to determine if the citizen is a resident of a jurisdiction within that State, and therefore eligible to vote within that jurisdiction and to provide absentee ballots to these citizens for Federal elections held within each calendar year. This form is mandated by 42 U.S.C 1973ff. The Department of Defense does not receive, collect nor maintain any data provided on the form by these citizens; this data is collected and maintained by the individual States. The burden in the collection of this data resides in the individual States. If the form is not provided, UOCAVA citizens would not have access to the emergency backup ballot and thus, may be disenfranchised from their right as a U.S. citizen to participate in the electoral process.

The previous edition of this form is dated 08–2013. The form had been updated for usability and consistency. The most significant changes to the form were the addition of the Agency Disclosure Statement and Block 2 classification options. Comments are invited on the usability of the SF 186, Federal Write-In Absentee Ballot. Interested parties should locate the PDF form in the docket where it is available for download and testing.

Dated: November 12, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–27221 Filed 11–17–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0152]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness OUSD(P&R), Federal Voting Assistance Program (FVAP), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c)

ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 20, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Director, Federal Voting Assistance Program, ATTN: Kathleen McDonnell, 4800 Mark Center Drive, Mailbox 10, Alexandria, Virginia 22350–5000.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Post Card Application (FPCA), Standard Form 76 (SF–76); OMB Control Number 0704–0503.

Needs and Uses: The information collection requirement is necessary to fulfill the requirement of the Uniformed and Overseas Absentee Voting Act (UOCAVA), 46 U.S.C. 1973ff wherein the Secretary of Defense is to prescribe an official postcard form, containing an absentee voter registration application and an absentee ballot request application for use by the States. The Department of Defense, Under Secretary of Defense (Personnel and Readiness), Federal Voting Assistance Program, revised the SF 76, Federal Post Card Application and SF 76A, Federal Post Card Application (Electronic) to comply with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Affected Public: Individuals or Households.

Annual Burden Hours: 300,000

Number of Respondents: 1,200,000

Responses per Respondent: 1

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are UOCAVA citizens who desire to apply for voter registration and/or request an absentee ballot from their State of residency. The information provided by these citizens is used by the States to determine if the citizen is a resident of a jurisdiction within that State, and therefore eligible to vote within that jurisdiction and to provide absentee ballots to these citizens for Federal elections held within each calendar year. This form is mandated by 42 U.S.C. 1973ff. The Department of Defense does not receive, collect nor maintain any data provided on the form by these citizens; this data is collected and maintained by the individual States. The burden in the collection of this data resides in the individual States. If the form is not provided, UOCAVA citizens may not be able to register to vote in their State of residency nor be able to request absentee ballots and thus, may be disenfranchised from their right as a U.S. citizen to participate in the electoral process. The previous Federal Post Card Application is the edition dated 08–2013. The form had been updated for usability and consistency. The most significant changes to the form were the addition of the Agency Disclosure Statement, Block 1 classification options, and affirmation. Comments are invited on the usability of the SF 76, Federal Post Card Application. Interested parties should locate the PDF form in the docket where it is available for download and testing.

Dated: November 12, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–27225 Filed 11–17–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the United States Military Academy Board of Visitors (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed pursuant to 10 U.S.C. 4355 and in accordance with the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act''), and 41 CFR 102–3.50(a).

The Board is a non-discretionary Federal advisory committee that shall provide independent advice and recommendations to the President of the United States on matters relating to but not limited to morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods and other matters relating to the United States Military Academy (''the Academy'') that the Board decides to consider. (10 U.S.C. 4355(e))

The Board shall visit the Academy annually. With the approval of the Secretary of the Army, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy. The Board shall submit a written report to the President within 60 days after its annual visit to the Academy, to include the Board's views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval. (10 U.S.C. 4355(d) and (f))

The Board, pursuant to 10 U.S.C. 4355, shall be constituted annually and composed of 15 members. The Board membership shall include:

a. The Chair of the Senate Committee on Armed Services, or designee;

b. Three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Senate Committee on Appropriations;

c. The Chair of the House Committee on Armed Services, or designee;

d. Four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the House Committee on Appropriations; and

e. Six persons designated by the President.

Board members designated by the President shall serve for three years each, except that any member whose term of office has expired shall continue to serve until a successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year.

If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

The Board members shall select the Chair from the total membership.

Board members who are full-time or permanent part-time Federal officers or employees shall be appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee (RGE) members. Board members, who are not full-time or permanent part-time Federal officers or employees, shall be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee (SGE) members.

With the exception of reimbursement of official Board-related travel and per diem, Board members shall serve without compensation.

The Board may, pursuant to 10 U.S.C. 4355(g) and upon approval by the Secretary of the Army, call in advisers for consultation. These advisers shall, with the exception of reimbursement for official Board-related travel and per diem, serve without compensation.

The DoD, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Army, as the Board's sponsor.

Such subcommittees shall not work independently of the Board and shall report all of their recommendations and advice solely to the Board for full and open deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or its members may update or report, verbally or in writing, on behalf of the Board, directly to the DoD or to any Federal officer or employee.

The Secretary of Defense or the Deputy Secretary of Defense will appoint subcommittee members to a term of service of one-to-four years, with annual renewals, even if the member in question is already a member of the Board. Subcommittee members shall not serve more than two consecutive terms of service unless authorized by the Secretary of Defense or the Deputy Secretary of Defense.

Subcommittee members, if not full-time or permanent part-time Federal officers or employees, shall be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal officers or employees will serve as RGE members pursuant to 41 CFR 102–3.130(a). With the exception of reimbursement of official Board-related travel and per diem, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

The estimated number of Board meetings is three per year.

The Board's Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies/procedures. In addition, the Board's DFO is required to attend all Board and subcommittee meetings for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to the DoD policies/procedures, shall attend the entire duration of the Board or subcommittee meeting.

The DFO, or the Alternate DFO, shall call all of the Board's and subcommittee's meetings; prepare and approve all meeting agendas; adjourn any meeting when the DFO, or Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings when directed to do so by the Secretary of the Navy.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to United States Military Academy Board of Visitors membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the United States Military Academy Board of Visitors.

All written statements shall be submitted to the DFO for the United States Military Academy Board of Visitors, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the United States Military Academy Board of Visitors DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.*

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the United States Military Academy Board of Visitors. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: November 13, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–27234 Filed 11–17–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the United States Naval Academy Board of Visitors (''the Board'').

FOR FURTHER INFORMATION CONTACT: James Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act''), and 41 CFR 102–3.50(d).

The Board is a non-discretionary Federal advisory committee that shall provide independent advice and recommendations to the President of the United States on matters relating to but not limited to morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods and other matters relating to the United States Naval Academy that the Board decides to consider.

The Board shall visit the Naval Academy annually, and any other official visits by the Board or its members to the Academy, other than the annual visit, shall be made in compliance with the requirements set forth in 10 U.S.C. 6968(d). The Board

shall submit a written report to the President of the United States within 60 days after its annual visit to the Naval Academy, to include the Board's views and recommendations pertaining to the Academy, including its advice and recommendations on matters set forth in the paragraph above. Any report of a visit, other than an annual visit, must be made pursuant to 10 U.S.C. 6968(f).

The Board, pursuant to 10 U.S.C. 6968(a), shall be constituted annually and shall be composed of no more than 15 members. The Board membership shall include:

a. The Chairman of the Committee on Armed Services of the Senate, or his designee;

b. Three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate;

c. The Chairman of the Committee on Armed Services of the House of Representatives, or his designee;

d. Four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives; and

e. Six persons designated by the President.

Board members designated by the President shall serve for three years each, except that any member whose term of office has expired shall continue to serve until his successor is appointed. In addition, the President shall designate two persons each year to succeed the members whose terms expire that year.

If a Board member dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member. The DoD, through the Department of the Navy, provides support, as deemed necessary, for the performance of the Board's functions, and ensures compliance with the requirements of FACA, the Government in the Sunshine Act, governing Federal statutes and regulations, and established DoD policies/procedures.

The Secretary of the Navy shall select the Board's Chair from the total membership.

With the exception of travel and per diem for official travel, Board members shall serve without compensation.

The Board, pursuant to 10 U.S.C. 6968(g) and (h), may, upon approval by the Secretary of the Navy, call in advisers for consultation, and these advisers shall, with the exception of travel and per diem for official travel, serve without compensation.

The Department, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task groups, or working groups to support the Board. Establishment of Subcommittees will be based upon written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Board's sponsor.

Such subcommittees or workgroups shall not work independently of the chartered Board, and shall report all of their recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the chartered Board; nor can any subcommittee or its members update or report, verbally or in writing, directly to the DoD or any Federal officers or employees.

All subcommittee members shall be appointed by the Secretary of Defense according to governing DoD policies/procedures even if the member in question is already a Board member. Such individuals shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and shall serve as special government employees. Subcommittee members, with the approval of the Secretary of Defense, may serve a term of service on the subcommittee of one-to-four years; however, no member shall serve more than two consecutive terms of service on the Subcommittee, unless authorized by the Secretary of Defense. All subcommittee members appointments must be renewed on an annual basis. With the exception of travel and per diem, subcommittee members shall serve without compensation.

All subcommittees, task forces, or working groups shall operate under the provisions of FACA, the Government in the Sunshine Act, governing Federal statutes and regulations, and governing DoD policies/procedures.

The estimated number of Board meetings is four per year.

The Board's Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies/procedures. In addition, the Board's DFO is required to attend all Board and subcommittee meetings for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to the DoD policies/procedures, shall attend the entire duration of the Board or subcommittee meeting.

The DFO, or the Alternate DFO, shall call all of the Board's and subcommittee's meetings; prepare and approve all meeting agendas; adjourn any meeting when the DFO, or Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies/procedures; and chair meetings when directed to do so by the Secretary of the Navy.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to United States Naval Academy Board of Visitors membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the United States Naval Academy Board of Visitors.

All written statements shall be submitted to the DFO for the United States Naval Academy Board of Visitors, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the United States Naval Academy Board of Visitors DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/*.

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the United States Naval Academy Board of Visitors. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: November 13, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–27238 Filed 11–17–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Board of Visitors of the U.S. Air Force Academy (''the Board'').

FOR FURTHER INFORMATION CONTACT: James Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act''), and 41 CFR 102–3.50(d).

The Board is a non-discretionary Federal advisory committee that shall provide independent advice and recommendations on matters relating to the U.S. Air Force Academy, to include morale, discipline, and social climate, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

The Board shall prepare a semiannual report containing its views and recommendations pertaining to the U.S. Air Force Academy, based on its meeting since the last such report and any other considerations it determines relevant. Each such report shall be submitted concurrently to the Secretary of Defense, through the Secretary of the Air Force, and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The DoD, through the Department of the Air Force, provides the necessary support for the performance of the Board's functions and ensures compliance with the requirements of the FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

The Board, pursuant to 10 U.S.C. 9355 (a) and (b)(2), shall be constituted annually and composed of 15 members. The Board membership shall include:

a. Six persons designated by the President, at least two of whom shall be graduates of the Academy;

b. The Chairperson of the Committee on Armed Services of the House of Representatives, or designee;

c. Four persons designated by the Speaker of the House of Representatives, three of whom shall be members of the House of Representatives and the fourth of whom may not be a member of the House of Representatives;

d. The Chairperson of the Committee on Armed Services of the Senate, or designee; and

e. Three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate.

Board members designated by the President shall serve for three years each, except that any member whose term of office has expired shall continue to serve until a successor is appointed. In addition, the President shall designate persons each year to succeed the members whose terms expire that year.

If a member of the Board dies, resigns, or is terminated, a successor shall be designated for the unexpired portion of the term by the official who designated the member. The Secretary of the Air Force members shall select the Board Chair and Vice Chair from the total membership. Board members who are full-time or permanent part-time Federal Officers or employees shall be appointed as regular government employees or ex officious, as appropriate. Board members designated by the President or the Congress, who are not full-time or permanent part-time Federal officers or employees, shall be appointed to serve as special government employees (SGEs) under the authority of 5 U.S.C. 3109.

With the exception of travel and per diem for official travel, Board members serve without compensation. If a member of the Board fails to attend two successive Board meetings, except in a case in which an absence is approved in advance for good cause by the Board Chairperson, such failure shall be grounds for termination from membership on the Board, pursuant to 10 U.S.C. 9355(c)(2)(A) (''absenteeism provision'').

Termination of membership on the Board pursuant to the absenteeism provision, in the case of a member of the Board who is not a member of Congress, may be made by the Board's Chair and, in the case of a member of the Board who is a member of Congress, may be made only by the official who designated the member. When a member of the Board is subject to termination from membership on the Board under the absenteeism provision, the Board's Chairperson shall notify the official who designated the member. Upon receipt of such a notification with respect to a member of the Board who is a member of Congress, the official who designated the member shall take such action as that official considers appropriate.

Board members who are full-time or permanent part-time Federal Officers or employees shall be appointed as regular government employees or ex officious, as appropriate. Board members designated by the President or the Congress, who are not full-time or permanent part-time Federal officers or employees, shall be appointed to serve as special government employees (SGEs) under the authority of 5 U.S.C. 3109.

The DoD, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task groups, or working groups to support the Board. Establishment of subcommittees will be based upon written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Air Force, as the Board's sponsor.

Such subcommittees or workgroups shall not work independently of the chartered Board, and shall report all their recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees, task forces, working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the chartered Board; nor can any subcommittee or its members update or report, verbally or in writing, directly to the DoD or any Federal officers or employees.

All subcommittee members shall be appointed by the Secretary of Defense according to governing DoD policies/procedures, even if the member in question is already a Board member. Such individuals shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109, and shall serve as special government employees. Subcommittee members, with the approval of the Secretary of Defense, may serve a term of service on the subcommittee of one-to-four years; however, no subcommittee member shall serve more than two consecutive terms of service unless otherwise authorized by the Secretary of Defense. All subcommittee appointments must be renewed on an annual basis. With the exception of travel and per diem, Subcommittee members shall serve without compensation.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Board of Visitors of the U.S. Air Force Academy membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board of Visitors of the U.S. Air Force Academy.

The Board shall meet at the call of the Board's Designated Federal Officer (DFO), in consultation with the Board's Chair. The estimated number of Board meetings is at least four per year, with at least two of those meetings taking place at the Academy. All written statements shall be submitted to the DFO for the Board of Visitors of the U.S.

Air Force Academy, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Board of Visitors of the U.S. Air Force Academy DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/*.

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Board of Visitors of the U.S. Air Force Academy. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: November 13, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–27278 Filed 11–17–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0148]

Agency Information Collection Activities; Comment Request; Teacher Education Assistance for College and Higher Education Grant Eligibility Regulations

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 20, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0148 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Teacher Education Assistance for College and Higher Education Grant Eligibility Regulations.

OMB Control Number: 1845–0084.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households, Private Sector, State, Local or Tribal Governments.

Total Estimated Number of Annual Responses: 251,452.

Total Estimated Number of Annual Burden Hours: 40,309.

Abstract: The Teacher Education Assistance for College and Higher Education (TEACH) Grant program is a non-need-based grant program that provides up to $4,000 per year to students who are enrolled in an eligible program and who agree to teach in a high-need field, at a low-income elementary or secondary school for at least four years within eight years of completing the program for which the Teach Grant was awarded. The TEACH Grant program regulations are required to ensure accountability of the program participants, both institutions and student recipients, for proper program administration, to determine eligibility to receive program benefits and to prevent fraud and abuse of program funds. The regulations include both record-keeping and reporting requirements. The record-keeping by the school allows for review of compliance with the regulation during on-site institutional reviews. The Department uses the required reporting to allow for close-out of institutions that are no longer participating or who lose eligibility to participate in the program.

Dated: November 12, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–27203 Filed 11–17–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0150]

Agency Information Collection Activities; Comment Request; National Blue Ribbon Schools Program

AGENCY: Office of Communication and Outreach (OCO), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 20, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0150 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be

addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Aba Kumi, 202–401–1767.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Blue Ribbon Schools Program.

OMB Control Number: 1860–0506.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local or Tribal Governments.

Total Estimated Number of Annual Responses: 413.

Total Estimated Number of Annual Burden Hours: 16,520.

Abstract: The National Blue Ribbon Schools Program honors public and private elementary, middle and high schools where students achieve at high levels or where the achievement gap is narrowing among all student subgroups. Each year since 1982, the U.S. Department of Education (ED) has sought out schools where students attain and maintain high academic goals, including those that beat the odds. The Program, part of a larger ED effort to identify and disseminate knowledge about best school leadership and teaching practices, is authorized by Public Law 107–110 (January 8, 2002), Part D Fund for the Improvement of Education, Subpart 1, Sec. 5411(b)(5).

Dated: November 12, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–27205 Filed 11–17–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0149]

Agency Information Collection Activities; Comment Request; U.S. Department of Education Green Ribbon Schools Nominee Presentation Form

AGENCY: Office of Communication and Outreach (OCO), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 20, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0149 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Andrea Falken, (202) 302–6971.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: U.S. Department of Education Green Ribbon Schools Nominee Presentation Form.

OMB Control Number: 1860–0509.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector, State, Local or Tribal Governments.

Total Estimated Number of Annual Responses: 4,330.

Total Estimated Number of Annual Burden Hours: 18,065.

Abstract: U.S. Department of Education Green Ribbon Schools (ED–GRS) is a recognition award that honors schools, districts, and postsecondary institutions that are exemplary in three Pillars: (1) Reducing environmental impact and costs, including waste, water, energy use and alternative transportation; (2) improving the health and wellness of students and staff, including environmental health of premises, nutrition and fitness; and (3) providing effective sustainability education, including STEM, civic skills and green career pathways.

The award is a tool to encourage state education agencies, stakeholders and

higher education officials to consider matters of facilities, health and environment comprehensively and in coordination with state health, environment and energy agency counterparts. In order to be selected for federal recognition, schools, districts and postsecondary institutions must be high achieving in all three of the above Pillars, not just one area. Schools, districts, colleges and universities apply to their state education authorities. State authorities can submit up to six nominees to ED, documenting achievement in all three Pillars. This information is used at the Department to select the awardees.

Dated: November 12, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–27204 Filed 11–17–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Nuclear Energy Advisory Committee

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Nuclear Energy Advisory Committee (NEAC). Federal Advisory Committee Act (Public Law 94–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, December 10, 2014, 8:30 a.m.–4:00 p.m.

ADDRESSES: Westin Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Bob Rova, Designated Federal Officer, U.S. Department of Energy, 19901 Germantown Rd, Germantown, MD 20874; telephone (301) 903–9096; email *Robert.rova@nuclear.energy.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Nuclear Energy Advisory Committee (NEAC), formerly the Nuclear Energy Research Advisory Committee (NERAC), was established in 1998 by the U.S. Department of Energy (DOE) to provide advice on complex scientific, technical, and policy issues that arise in the planning, managing, and implementation of DOE's civilian nuclear energy research programs. The committee is composed of 18 individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to nuclear energy.

Purpose of the Meeting: To inform the committee of recent developments and current status of research programs and projects pursued by the Department of Energy's Office of Nuclear Energy and receive advice and comments in return from the committee.

Tentative Agenda: The meeting is expected to include presentations that cover such topics as an update on activities for the Office of Nuclear Energy. In addition, there will be presentations by Nuclear Energy Advisory Committee subcommittees. The agenda may change to accommodate committee business. For updates, one is directed the NEAC Web site: *http://energy.gov/ne/services/nuclear-energy-advisory-committee.*

Public Participation: Individuals and representatives of organizations who would like to offer comments and suggestions may do so on the day of the meeting, Wednesday, December 10, 2014. Approximately thirty minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed 5 minutes. Anyone who is not able to make the meeting or has had insufficient time to address the committee is invited to send a written statement to Bob Rova, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, or email at: *Robert.rova@nuclear.energy.gov.*

Minutes: The minutes of the meeting will be available by contacting Mr. Rova at the address above or on the Department of Energy, Office of Nuclear Energy Web site at *http://www.ne.doe.gov/neac/neNeacMeetings.html.*

Issued in Washington, DC, on November 12, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–27256 Filed 11–17–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No: PP–398]

Amended Application for Presidential Permit; Great Northern Transmission Line

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of amended application.

SUMMARY: Minnesota Power, an operating division of ALLETE, Inc., has submitted an amended application for a Presidential permit to construct, operate, maintain, and connect an electric transmission line across the United States border with Canada.

DATES: Comments or requests to intervene should be submitted on or before December 18, 2014.

ADDRESSES: Comments or requests to intervene should be addressed as follows: Christopher Lawrence, Office of Electricity Delivery and Energy Reliability (OE–20), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) at 202–586–5260 or via electronic mail at *Christopher.Lawrence@hq.doe.gov,* or Katherine L. Konieczny (Attorney-Adviser) at 202–586–0503 or via electronic mail at *Katherine.Konieczny@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities crossing the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

On April 15, 2014, Minnesota Power filed an application with the Office of Electricity Delivery and Energy Reliability of the Department of Energy (DOE) for a Presidential permit. Minnesota Power has it principal place of business in Duluth, Minnesota. Minnesota Power is an investor-owned utility and provides retail electric service to 144,000 customers and wholesale electric service to 16 municipalities and several industrial customers.

On May 14, 2014, DOE published a Notice of Application in the **Federal Register**. On October 29, 2014, Minnesota Power submitted an amendment to its Presidential permit application. In the amendment letter notifying DOE of a new proposed border crossing, Minnesota Power stated that in the course of its review and consultation with state and federal agencies, as well as more input with landowners and stakeholders in the vicinity of the proposed border crossing, Minnesota Power determined that the originally proposed border crossing submitted in its application is no longer feasible.

Minnesota Power now proposes to cross the U.S. international border approximately 4.3 miles to the east of its original proposed crossing. The new proposed border crossing for the Great Northern Transmission Line Project would originate at the Minnesota-

Manitoba border roughly 2.9 miles east of Highway 89 in Roseau County. It would proceed southeast 0.2 miles and then travel south 2.3 miles to 390th Street and turn east following the Blue and Orange Routes as proposed in the April 15, 2014 application.

Procedural Matters: Any person may comment on this application by filing such comment at the address provided above. Any person seeking to become a party to this proceeding must file a motion to intervene at the address provided above in accordance with Rule 214 of FERC's Rules of Practice and Procedure (18 CFR 385.214). Two copies of each comment or motion to intervene should be filed with DOE on or before the date listed above.

Additional copies of such motions to intervene also should be filed directly with: David Moeller, Senior Attorney, Minnesota Power, 30 West Superior St., Duluth, MN 55802, *dmoeller@allete.com* AND Mike Donahue, Project Manager, Minnesota Power, 30 West Superior St., Duluth, MN 55802, *mdonahue@allete.com* AND Jim Atkinson, Environmental Manager, Minnesota Power, 30 West Superior St., Duluth, MN 55802, *jbatkinson@allete.com.*

Before a Presidential permit may be issued, DOE must determine whether issuance of the permit would be consistent with the public interest. In making that determination, DOE considers the potential environmental impacts of the proposed project pursuant to the National Environmental Policy Act (NEPA), determines the project's impact on electric reliability by ascertaining whether the proposed project would adversely affect the operation of the U.S. electric power supply system under normal and contingency conditions, and considers any other factors that may also be relevant to the public interest. DOE must also obtain the favorable recommendations of the Secretary of State and the Secretary of Defense before issuing a Presidential permit.

Copies of the amended application will be made available, upon request, for public inspection by accessing the program Web site at *http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/international-electricity-regulatio-2* or by emailing Angela Troy at *angela.troy@hq.doe.gov.*

Issued in Washington, DC, on November 12, 2014.

Christopher A. Lawrence,

Electricity Policy Analyst, National Electricity Delivery Division, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–27259 Filed 11–17–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Company Project No. 349–183]

Alabama Power; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Non-project Use of Project Lands.

b. *Project No:* 349–183.

c. *Date Filed:* September 30, 2014.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Martin Dam Project.

f. *Location:* Tallapoosa River in Elmore, Coosa, and Tallapoosa counties, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791a—825r.

h. *Applicant Contact:* Matthew Akin, Alabama Power Company, 600 18th Street North, Birmingham, Alabama 35203; Telephone: (205) 257–1314.

i. *FERC Contact:* Shana High at (202) 502–8674, or email: *shana.high@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests: 30 days from issue.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–349–183) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Request: Alabama Power Company proposes to authorize Billy Ray Smith to replace two existing piers and add to a third existing pier at Smith's Marina, formerly Veazey's Marina, located at 1590 Pine Point Road, Alexander City, Alabama 35010. As proposed, the three piers would accommodate 22 watercraft. The proposal would allow Smith's Marina to operate in both high and low water conditions, making the marina viable year-round, and would make the marina more accessible to the public from the water. Two of the piers would have second level party/sun decks. Existing gas pumps at the third pier would remain.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–349) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to

intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Documents: Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: November 4, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27247 Filed 11–17–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–27–000.

Applicants: Banco Santander, S.A., Tonopah Solar I, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities, Request Confidential Treatment, Waivers, and Expedited Consideration of Banco Santander, S.A., *et al.*

Filed Date: 11/7/14.

Accession Number: 20141107–5258.

Comments Due: 5 p.m. ET 11/28/14.

Docket Numbers: EC15–28–000.

Applicants: Spring Canyon Energy II LLC, Spring Canyon Energy III LLC, Spring Canyon Interconnection LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of Spring Canyon Energy II LLC, *et al.*

Filed Date: 11/10/14.

Accession Number: 20141110–5133.

Comments Due: 5 p.m. ET 12/1/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2124–009*; ER10–2125–010; ER10–2127–009; ER10–2128–009; ER10–2129–007; ER10–2130–009; ER10–2131–010; ER10–2132–009; ER10–2133–010; ER10–2134–007; ER10–2135–007; ER10–2136–007; ER10–2137–010; ER10–2138–010; ER10–2139–010; ER10–2140–010; ER10–2141–010; ER10–2764–009; ER11–3872–011; ER11–4044–010; ER11–4046–009; ER12–161–009; ER12–164–008; ER12–645–010; ER14–25–006; ER14–2187–004; ER14–2798–002; ER14–2799–002; ER14–2820–002; ER14–2821–002.*

Applicants: Spring Canyon Energy LLC, Spring Canyon Energy II LLC, Spring Canyon Energy II LLC, Judith Gap Energy LLC, Invenergy TN LLC, Grays Harbor Energy LLC, Wolverine Creek Energy LLC, Forward Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Willow Creek Energy LLC, Sheldon Energy LLC, Hardee Power Partners Limited, Spindle Hill Energy LLC, Invenergy Cannon Falls LLC, Beech Ridge Energy LLC, Vantage Wind Energy LLC, Stony Creek Energy LLC, Gratiot County Wind LLC, Gratiot County Wind II LLC, California Ridge Wind Energy LLC, Bishop Hill Energy LLC, Bishop Hill Energy III LLC, Prairie Breeze Wind Energy LLC, Grand Ridge Energy Storage LLC, Beech Ridge Energy II LLC, Beech Ridge Energy Storage LLC.

Description: Notification of Change in Facts of Spring Canyon Energy LLC, *et al.*

Filed Date: 11/7/14.

Accession Number: 20141107–5255.

Comments Due: 5 p.m. ET 11/28/14.

Docket Numbers: ER14–1578–004.

Applicants: PacifiCorp.

Description: Compliance filing per 35: OATT EIM Compliance Filing Effective Date to be effective 11/1/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5151.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER14–2626–001.

Applicants: Southern California Edison Company.

Description: Compliance filing per 35: SCE Second Compliance Filing to Order No. 792 to be effective 10/1/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5158.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER14–2872–001.

Applicants: Southern California Edison Company.

Description: Tariff Amendment per 35.17(b): SCE's Response to Deficiency re Service Agmt City of Industry—Grand Crossing to be effective 9/16/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5155.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–366–000.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Withdrawal per 35.15: Notice of Termination of KMPUD IA and TFA Service Agreement 230 to be effective 10/31/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5001.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–367–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): KMPUD IA and TFA Replacement Filing—TO Service Agreement No. 276 to be effective 11/1/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5002.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–368–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–11–10_SA 6502 Illinois Power-MISO SSR Unanticipated Repairs Amendment to be effective 11/1/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5144.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–369–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Admin. Rev. to FCM Rules—Part 1 of 2 to be effective 1/30/2015.

Filed Date: 11/10/14.

Accession Number: 20141110–5145.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–369–001.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Tariff Amendment per 35.17(b): Admin. Rev. to FCM Rules—Part 2 of 2 to be effective 6/1/2018.

Filed Date: 11/10/14.

Accession Number: 20141110–5150.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: ER15–370–000.

Applicants: Ameren Illinois Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Letter Agreement Between Prairie Power, Inc. and Eastern Illini Electric Coop. to be effective 10/9/2014.

Filed Date: 11/10/14.

Accession Number: 20141110–5148.

Comments Due: 5 p.m. ET 12/1/14.

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: November 10, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27258 Filed 11–17–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–18–000]

Consolidated Edison Company of New York, Inc. (Complainant) v. PJM Interconnection, L.L.C., (Respondent); Notice of Complaint

Take notice that on November 7, 2014, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and (825(e), Consolidated Edison Company of New York, Inc. (Con Edison or Complainant), filed a complaint against the PJM Interconnection, L.L.C (PJM or Respondent). Con Edison requests that the Commission order PJM to revise its allocation of costs to Con Edison with respect to the PSE&G Sewaren and PSE&G Upgrade projects and to modify the PJM allocation method, as more fully explained in the complaint.

The 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 December 1, 2014.

Dated: November 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27242 Filed 11–17–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF14–14–000]

Rover Pipeline LLC, Notice of Intent To Prepare an Environmental Impact Statement for the Planned Rover Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the planned Rover Pipeline Project (Project) involving construction and operation of facilities by Rover Pipeline LLC (Rover) in multiple counties in Michigan, Ohio, West Virginia, and Pennsylvania. The Commission will use this EIS in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice, which is being sent to the Commission's current environmental mailing list for the Project, announces the opening of the scoping process that will be used to gather input about the Project from the public and other interested stakeholders. State and local government representatives should notify their constituents about this process and encourage them to comment on their areas of concern. Scoping comments will help the Commission staff determine what issues will need to be evaluated in the EIS. Please note that the scoping period will close on December 18, 2014.

Comments about the Project may be submitted in written form or verbally. The Public Participation section of this notice describes how to submit written comments. Verbal comments can be given at the public scoping meetings to be held in the Project area as scheduled below.

Date and time	Meeting location
Monday, November 17, 2014, 6:00 p.m. EST	Toronto High School Cafetorium, 1305 Dennis Way, Toronto, OH 43964.
Tuesday, November 18, 2014, 6:00 p.m. EST	Matt Barker Building, 217 North 4th Avenue, Paden City, WV 26159.
Wednesday, November 19, 2014, 6:00 p.m. EST	Harrison Central High School Auditorium, 440 East Market Street, Cadiz, OH 43907.
Thursday, November 20, 2014, 6:00 p.m. EST	George Prinzing Auditorium, 500 Washington Street, Chelsea, MI 48118.
Monday, December 1, 2014, 6:00 p.m. EST	Adrian High School Auditorium, 785 Riverside Ave., Adrian, MI 49221.
Tuesday, December 2, 2014, 6:00 p.m. EST	Defiance College—Schomburg Auditorium, 701 North Clinton Street, Defiance, OH 43512.

Date and time	Meeting location
Wednesday, December 3, 2014, 6:00 p.m. EST	Buckeye Central High School Auditorium, 938 South Kibler Street, New Washington, OH 44854.
Thursday, December 4, 2014, 6:00 p.m. EST	Fairless High School Auditorium, 11885 Navarre Road SW., Navarre, OH 44662.
Wednesday, December 10, 2014, 6:00 p.m. EST	Holiday Inn Gateway Center, 5353 Gateway Centre, Flint, MI 48507.
Thursday, December 11, 2014, 6:00 p.m. EST	Maniaci Banquet, 69227 North Main Street, Richmond, MI 48062.

The purpose of these scoping meetings is to provide the public an opportunity to learn more about the Commission's environmental review process, and to verbally comment on the Project. Each scoping meeting will start at 6:00 p.m. and representatives from Rover will be present one hour prior to each scoping meeting to answer questions about the Project. Affected landowners and other interested parties are encouraged to attend the scoping meetings and to give their comments on the issues they believe should be addressed in the EIS. A transcript of each meeting will be added to the Commission's administrative record to ensure that your comments are accurately recorded.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned pipeline facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the Project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, a condemnation proceeding could be initiated where compensation would be determined in accordance with state law.

The ''For Citizens'' section of the FERC Web site (*www.ferc.gov*) provides more information about the FERC and the environmental review process. This section also includes information about getting involved in FERC jurisdictional projects, and a citizens' guide entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need to Know?'' This guide addresses a number of frequently asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

Rover plans to use about 621 miles of operational right-of-way to construct and operate about 820 miles of interstate natural gas transmission pipeline and associated facilities in Michigan, Ohio, Pennsylvania, and West Virginia. The Project would originate near Cadiz in Harrison County, Ohio; would extend about 210 miles west to an interconnection with the Mid-west Hub; and then head northeast for about 209 miles to the Canadian/United States Border. The remaining 199 miles would be associated with eight supply laterals to service areas in Ohio, Pennsylvania, and West Virginia. Specifically, the Project would consist of the following components:

- Eight 24-, 30-, 36-, and 42-inch-diameter pipeline supply laterals (199.3 miles), in Washington County, Pennsylvania; Doddridge, Hancock, Tyler, and Wetzel Counties, West Virginia; and Belmont, Carroll, Harrison, Jefferson, Marshall, Monroe, and Noble Counties, Ohio;
- two collocated 42-inch-diameter pipelines, Mainline A (209.5 miles) and Mainline B (202.1 miles), in Ashland, Carroll, Crawford, Defiance, Hancock, Harrison, Henry, Richland, Seneca, Stark, Tuscarawas, Wayne, and Wood Counties, Ohio;
- one 42-inch-diameter pipeline, Market Segment (209.4 miles), in Defiance, Fulton, and Henry Counties, Ohio; and Genesee, Lapeer, Lenawee, Livingston, Macomb, Oakland, Shiawassee, St. Clair, and Washtenaw Counties, Michigan;
- ten new compressor stations (CS):
  - Cadiz CS in Harrison County, Ohio;
  - Clarington CS in Monroe County, Ohio;
  - Seneca CS in Noble County, Ohio;
  - Burgettstown CS in Washington County, Pennsylvania;
  - Majorsville CS in Marshall County, West Virginia;
  - Sherwood CS in Doddridge County, West Virginia;
  - Defiance CS in Defiance County, Ohio;
  - Mainline CS 1 in Carroll County, Ohio;
  - Mainline CS 2 in Wayne County, Ohio;
  - Mainline CS 3 in Crawford County, Ohio; and
- four new metering and regulating stations in Doddridge County, West Virginia; Monroe County, Ohio; and Washtenaw and Shiawassee Counties, Michigan.

The general location of the Project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the planned Project facilities would disturb about 12,147 acres of land. The typical construction right-of-way for pipeline facilities would vary between 125- and 150-feet-wide in uplands and 75- and 95-feet-wide in wetlands, with additional workspace needed in some locations due to site-specific conditions and activities. Following construction, approximately 4,567 acres of land would be retained for permanent operation of the facilities. Land affected by construction but not required for operation would generally be allowed to revert to former uses.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity under Section 7 of the Natural Gas Act. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This discovery process is commonly referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to be addressed in the EIS. All comments received will be considered during the preparation of the EIS, and addressed as appropriate.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the planned Project under these general headings:

[1] The appendices referenced in this notice will not appear in the **Federal Register.** Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the Additional Information section at the end of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

- Geology and soils;
- water resources, including surface waters and groundwater;
- wetlands;
- vegetation, fisheries, and wildlife;
- threatened and endangered species;
- land use;
- socioeconomics;
- cultural resources;
- air quality and noise;
- public safety and reliability; and
- cumulative impacts.

We will also evaluate alternatives to the Project, Project components, pipeline routes, and aboveground facility locations; and make recommendations on how to avoid or minimize impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The EIS will present our independent analysis of the issues. We will publish and distribute a draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to the Project to formally cooperate with us in the preparation of the EIS.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, the Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (COE), and Ohio EPA have expressed their intent to participate as cooperating agencies in the preparation of the EIS to satisfy their NEPA responsibilities related to this Project. The COE has jurisdictional authority pursuant to Section 404 of the Clean Water Act, which governs the discharge of dredged or fill material into waters of the United States, and Section 10 of the Rivers and Harbors Act, which regulates any work or structures that potentially affect the navigability of a waterway.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Michigan, Ohio, Pennsylvania, and West Virginia State Historic Preservation Offices (SHPOs), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[4] We will define the Project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the Project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include the construction right-of-way, contractor/pipe storage yards, compressor stations, meter stations, and access roads). Our EIS for the Project will document our findings on the impacts on historic properties and summarize the status of consultations under Section 106.

Currently Identified Environmental Issues

Based on our preliminary review of the Project; information provided by Rover; and public comments filed in the Commission's administrative record and submitted to staff at the applicant-sponsored open houses; we have identified numerous issues that we think deserve attention. This preliminary list of issues may change based on your comments and our ongoing environmental analysis. These issues are:

- Purpose and need for the Project;
- impacts of clearing forested areas and other vegetation;
- impacts on water resources including sensitive springs, groundwater, and wetlands;
- impacts on land use including agricultural lands and associated drainage systems;
- the use of eminent domain to obtain Project easements;
- impacts on property values and recreational resources;
- impacts from construction noise;
- pipeline integrity and public safety;
- alternatives; and
- cumulative impacts.

Public Participation

You can make a difference by providing us with your comments about the Project. Your comments should focus on the potential environmental impacts of the Project, reasonable alternatives, and measures to avoid or lessen these environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are considered in a timely manner and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before December 18, 2014.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please refer to the Project docket number (PF14–14–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the *Documents and Filings* heading. This is an easy method for interested persons to submit brief, text-only comments on a Project;

(2) You can also file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the *Documents and Filings* heading. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing;'' or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, § 1501.6.

[4] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who has submitted comments on the Project in the Commission's administrative record. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned Project.

Copies of the draft EIS will be sent to the environmental mailing list for review and comment. If you would prefer to receive a paper copy of the EIS instead of the compact disc version or if you would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

Once Rover files an application with the Commission, you may want to become an ''intervenor,'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor can be found under the ''Getting Involved'' heading of the ''For Citizens'' section on the FERC Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the Project.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*) using the eLibrary link (*http://www.ferc.gov/docs-filing/elibrary.asp*). Click on the eLibrary link, click on ''General Search,'' and enter the docket number, excluding the last three digits (PF14–14). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.* Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: November 4, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27243 Filed 11–17–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD15–1–000]

San Bernardino Valley Municipal Water District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On October 27, 2014, the San Bernardino Valley Municipal Water District filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Waterman Turnout In-Conduit Hydroelectric Project would have an installed capacity of 865 kilowatts (kW) and would be located on the existing 30-inch-diameter Waterman turnout, which branches off the San Bernardino Valley Municipal Water District's Foothill Pipeline. The project would be located near the city of San Bernardino in San Bernardino County, California.

Applicant Contact: Wen Huang, 380 East Vanderbilt Way, San Bernardino, CA 92408, Phone No. (909) 387–9223.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) One proposed 35-foot-long, 24-inch diameter pipe; (2) a proposed 850-square-feet concrete powerhouse containing one 2-jet Pelton turbine-generator with an installed capacity of 865 kW; (3) a proposed 59-foot-long, 24-inch diameter bypass pipe to allow groundwater recharge to continue when the plant is not operating; (4) the existing discharge structure ; and (5) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 3,575 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	*Description*	*Satisfies (Y/N)*
FPA 30(a)(3)(A), as amended by HREA.	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA.	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (e.g., CD15–1–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: November 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27244 Filed 11–17–14; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2013).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–255–000]

Duke Energy Beckjord Storage, 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 Beckjord Storage, 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 25, 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: November 5, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27245 Filed 11–17–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY: Federal Energy Regulatory Commission, DOE.

DATE AND TIME: November 20, 2014, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda

* NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents

relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1010TH—MEETING

REGULAR MEETING

November 20, 2014, 10:00 a.m.

Item No.	Docket No.	Company
		ADMINISTRATIVE
A–1	AD02–1–000	Agency Business Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD07–13–008	2014 Report on Enforcement.
		ELECTRIC
E–1	EC14–96–000	Exelon Corporation and Pepco Holdings, Inc.
E–2	AD13–7–000	Centralized Capacity Markets in Regional Transmission Organizations and Independent System Operators.
	AD14–8–000	Winter 2013–2014 Operations and Market Performance In Regional Transmission Organizations and Independent System Operators.
E–3	AD14–16–000	Kansas City Board of Public Utilities.
E–4	RM14–15–000	Physical Security Reliability Standard.
E–5	OMITTED.	
E–6	RM14–10–000	Real Power Balancing Control Performance Reliability Standard.
E–7	ER14–2936–000	Sunbury Generation LP.
E–8	ER14–2963–000	California Independent System Operator Corporation.
E–9	OA14–3–000	FPL Energy Oklahoma Wind, LLC.
E–10	RR14–5–000	North American Electric Reliability Corporation.
E–11	EL15–15–000	PJM Interconnection, L.L.C.
		GAS
G–1	PL15–1–000	Cost Recovery Mechanisms for Modernization of Natural Gas Facilities.
G–2	RM14–21–000	Natural Gas Act Pipeline Maps.
G–3	RP12–318–003 RP12–318–005.	Texas Eastern Transmission, LP.
G–4	RP13–431–003	Dominion Transmission, Inc.
G–5	OR14–6–000	BP Pipelines (Alaska) Inc., ConocoPhillips Transportation.
	OR14–6–001	Alaska, Inc. and ExxonMobil Pipeline Company.
		HYDRO
H–1	P–12588–010	Hydraco Power, Inc. and Warren David Long.
H–2	P–12690–007 P–12690–009. EL14–47–001.	Public Utility District No. 1 of Snohomish County, Washington.
H–3	P–13997–002	Richard A. Glover, Jr.
H–4	P–2210–248	Appalachian Power Company.
		CERTIFICATES
C–1	RM12–11–002	Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations.

A free webcast of this event is available through www.ferc.gov. Anyone with Internet access who desires to view this event can do so by navigating to www.ferc.gov's Calendar of Events and locating this event in the Calendar.

The event will contain a link to its Webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit www.CapitolConnection.org or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

Dated: November 13, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27335 Filed 11–14–14; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP15–147–000]

Comisión Federal de Electricdad; Notice of Petition for Clarification Regarding Continuation of Prior Authorization of Gas Supply and Transportation Arrangements

Take notice that on November 3, 2014, pursuant to Rule 207(a)(5) of the Commission's Rules of Practices and Procedure, 18 CFR 385.207(a)(5)(2014), the Comisión Federal de Electricdad (CFE), Mexico's nationally-owned electric utility, filed a petition for clarification that prior authorization of certain gas supply and transportation arrangements on behalf of CFE will continue following permanent release by the current shipper (MexGas Supply, S.L., formerly known as MGI Supply Ltd. [MexGas]), to CFE of transportation capacity on the Samalayuca Lateral of the El Paso Natural Gas Company, L.L.C. Additionally, CFE requests such other waivers or permissions the Commission finds necessary to allow the arrangement to take effect, all as more fully explained in the petition.

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 13, 2014.

Dated: November 5, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27246 Filed 11–17–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–4–000]

Trans-Allegheny Interstate Line Company; Notice of Supplement To Petition for Declaratory Order

Take notice that on November 7, 2014, Trans-Allegheny Interstate Line Company filed clarifications to its petition for declaratory regarding pay of dividends out of paid-in capital, filed on October 7, 2014.

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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

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 assistancewith 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 17, 2014.

Dated: November 10, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27241 Filed 11–17–14; 8:45 am]

BILLING CODE 6717–01–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 13, 2014.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *NewBridge Bancorp,* Greensboro, North Carolina; to acquire Premier Commercial Bank, Greensboro, North Carolina.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *UniBanc Corp.,* Maywood, Nebraska; to acquire 100 percent of the voting shares of Bank of Stapleton, Stapleton, Nebraska.

C. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *First Financial Northwest, Inc.,* Renton, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of First Savings Bank Northwest, both of Renton, Washington.

Board of Governors of the Federal Reserve System, November 13, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–27236 Filed 11–17–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0142; Docket 2014–0055; Sequence 31]

Federal Acquisition Regulation; Information Collection; Past Performance Information

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning past performance information.

DATES: Submit comments on or before January 20, 2015.

ADDRESSES: Submit comments identified by Information Collection 9000–0142, Past Performance Information, by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0142. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0142, Past Performance Information.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0142, Past Performance Information,'' on your attached document.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0142, Past Performance Information.

Instructions: Please submit comments only and cite ''Information Collection 9000–0142, Past Performance Information'', in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Acquisition Policy Division, at GSA 202–501–1448 or email *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Past performance information regarding a contractor's actions under previously awarded contracts is relevant information for future source selection purposes. The information collection requirements at FAR 15.304 and 42.15 remains the same; however, the public burden has been adjusted downward. The estimated responses used to calculate the burden is based on the availability of data on FY 2014 awards from existing systems (FPDS and CPARS).

B. Annual Reporting Burden

a. Responses During Source Selection

Respondents: 27,734.
Responses per Respondent: 4.
Annual Responses: 110,936.
Hours per Response: 2.
Total Burden Hours: 221,872.

b. Responses in CPARS

Respondents: 177,396.
Responses per Respondent: 1.
Annual Responses: 177,396.
Hours per Response: 2.
Total Burden Hours: 354,792.
Total Annual Burden: 576,664 Hours.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0142, Past Performance Information, in all correspondence.

Dated: November 12, 2014.

Edward Loeb,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–27216 Filed 11–17–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990–new–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before December 18, 2014.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and document identifier HHS–OS–0990–New–30D for reference.

Information Collection Request Title: Data Element Survey for the Title X Family Planning Annual Report (FPAR) 2.0

Abstract: The Office of Population Affairs (OPA) within the Office of the Assistant Secretary for Health (OASH), Office of Family Planning (OFP), and this office is requesting Office of Management and Budget (OMB) approval on a new data collection form (data element survey). This survey is intended to collect feedback from the Title X network regarding feasibility, alignment, and potential workflow issues related to encounter-level data collection and the proposed new FPAR 2.0 data elements (the data dictionary). This voluntary form will occur at most annually and allow the Title X network to offer feedback and guidance that will inform OPA's development of FPAR 2.0. OPA will solicit feedback from Title X agencies to better inform the 2.0 data dictionary, and proposes to make this data collection form available for up to 3 years so that OPA can accept feedback from the network regarding any version changes that might be made to the dictionary.

Likely Respondents: Title X Grantees, Sub recipients, and Service Sites.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Data Element Survey	818	1	30/60	409
Total			30/60	409

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Information Collection Clearance Officer.

[FR Doc. 2014–27220 Filed 11–17–14; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Full Committee Meeting.

Time and Date: December 2, 2014, 9:00 a.m.–5:30 p.m. EST, December 3, 2014, 8:00 a.m.–12:00 p.m. EST.

Place: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 705A, Washington, DC 20201, (202) 690–7100.

Status: Open.

Purpose: The purpose of this meeting is to review NCVHS Status of Activities and to strategically plan for 2015 objectives and deliverables. The Committee will review its ongoing efforts and direction in light of the priorities, guiding principles and coordination of Subcommittee projects. Additional topics will include an AHRQ Statistical Brief on the Impact of the Affordable Care Act (ACA) Implementation, CDC Surveillance Systems, and implementation plans for the ACA Review Committee process. The Working Group on HHS Data Access and Use will continue strategic discussions on Building a Framework for Guiding Principles for Data Access and Use.

The times shown above are for the Full Committee meeting. Subcommittee issues will be included as part of the Full Committee schedule.

FOR FURTHER INFORMATION CONTACT: Substantive program information may be obtained from Debbie M. Jackson, Acting Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2339, Hyattsville, Maryland 20782, telephone (301) 458–4614. Summaries of meetings and a roster of committee members are available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/*, where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: November 10, 2014.

James Scanlon,

Deputy Assistant Secretary for Planning and Evaluation (Science and Data Policy), Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 2014–27200 Filed 11–17–14; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.592]

Announcing the Award of a Single-Source Program Expansion Supplement Grant to Casa de Esperanza in St. Paul, MN

AGENCY: Family and Youth Services Bureau, ACYF, ACF.

ACTION: The Family and Youth Services Bureau announces the award of a single-source program expansion supplement grant under the Family Violence Prevention and Services Act (FVPSA) Technical Assistance Project to Casa de Esperanza to support training and technical assistance activities.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF), Family and Youth Services Bureau (FYSB), Division of Family Violence and Prevention Services (DFVPS) announces the award of $125,000 as a single-source program expansion supplement to Casa de Esperanza in St. Paul, Minnesota. The grantee, funded under the FVPSA

program, is a technical assistance provider that assists FVPSA service providers to build the capacity of domestic violence programs to serve Latina victims of domestic violence.

DATES: The period of support is September 30, 2014 through September 29, 2015.

FOR FURTHER INFORMATION CONTACT: Shawndell Dawson, Senior Program Specialist, Family Violence Prevention and Services Program, 1250 Maryland Avenue SW., Suite 8219, Washington, DC 20024. Telephone: 202–205–1476; Email: *Shawndell.Dawson@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Supplemental award funds will support the grantee in providing training and technical assistance to domestic violence service providers.

This award will expand the scope of Casa de Esperanza's technical assistance for domestic violence programs to include additional activities around the issue of trafficking, such as:

- Survivor Centered Trauma-Informed Trafficking Services webinar series and resources;
- Grantee listening sessions regarding needs, challenges and barriers related to offering trafficking services;
- Documentation of current promising practices for serving survivors of trafficking within domestic violence programs (i.e. program profiles, a case study, online page); and
- Partnership considerations and recommendations for domestic violence programs.

In addition, the grantee will enhance training and technical assistance around the issue of language access planning for domestic violence programs, such as:

- State Coalitions Language Access Planning Training of Trainers with twenty states;
- Providing resources for the FVPSA state administrators;
- Targeted technical assistance to the twenty states that complete the training of trainers;
- Language Access Planning for Domestic Violence Services webinar series in partnership with Asian and Pacific Islander Institute on Domestic Violence (4 webinars);
- Documentation of the twenty states implementing enhanced language access planning (i.e., program profiles, a case study, short report).

Statutory Authority: Section 310 of the Family Violence Prevention and Services Act, as amended by Section 201 of the CAPTA Reauthorization Act of 2010, Public Law 111–320.

Christopher Beach,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2014–27226 Filed 11–17–14; 8:45 am]

BILLING CODE 4184–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.592]

Announcing the Award of a Single-Source Program Expansion Supplement Grant to the Asian and Pacific Islander Institute on Domestic Violence (APIIDV) in San Francisco, CA

AGENCY: Family and Youth Services Bureau, ACYF, ACF, HHS.

ACTION: The Family and Youth Services Bureau announces the award of a single-source program expansion supplement grant under the Family Violence Prevention and Services Act (FVPSA) Technical Assistance Project to the Asian and Pacific Islander Institute on Domestic Violence (APIIDV) to support training and technical assistance activities.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF), Family and Youth Services Bureau (FYSB), Division of Family Violence and Prevention Services (DFVPS) announces the award of $150,000 as a single-source program expansion supplement to APIIDV in San Francisco, CA. The grantee, funded under the FVPSA program, is a technical assistance provider that assists FVPSA service providers to build the capacity of domestic violence programs to serve victims of domestic violence from Asian and Pacific Islander communities.

DATES: The period of support is September 30, 2014 through September 29, 2015.

FOR FURTHER INFORMATION CONTACT: Shawndell Dawson, Senior Program Specialist, Family Violence Prevention and Services Program, 1250 Maryland Avenue SW., Suite 8219, Washington, DC 20024. Telephone: 202–205–1476; Email: *Shawndell.Dawson@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Supplemental award funds will support the grantee in providing training and technical assistance to domestic violence service providers.

This award will expand the scope of APIIDV's technical assistance for domestic violence programs to include additional activities around the issue of trafficking, such as:

- Survivor Centered Trauma-Informed Trafficking Services webinar series and resources;
- Grantee listening sessions regarding needs, challenges and barriers related to offering trafficking services;
- Documentation of current promising practices for serving survivors of trafficking within domestic violence programs (i.e. program profiles, a case study, online page); and
- Partnership considerations and recommendations for domestic violence programs;

In addition, the grantee will enhance training and technical assistance around the issue of language access planning for domestic violence programs, such as:

- State Coalitions Language Access Planning Training of Trainers with twenty states;
- Providing resources for the FVPSA state administrators;
- Targeted technical assistance to the twenty states that complete the training of trainers;
- Language Access Planning for Domestic Violence Services webinar series in partnership with Casa de Esperanza (4 webinars); and
- Documentation of the twenty states implementing enhanced language access planning (i.e., program profiles, a case study, short report).

Statutory Authority: Section 310 of the Family Violence Prevention and Services Act, as amended by Section 201 of the CAPTA Reauthorization Act of 2010, Pub. L. 111–320.

Christopher Beach,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2014–27202 Filed 11–17–14; 8:45 am]

BILLING CODE 4184–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.623]

Award of a Single-Source Expansion Supplement Grant to the National Runaway Switchboard, dba National Runaway Safeline, in Chicago, IL

AGENCY: Family and Youth Services Bureau (FYSB), Administration on Children Youth and Families (ACYF), ACF, HHS.

ACTION: Announcing the award of a single-source program expansion

supplement to the National Runaway Switchboard, Inc., dba National Runaway Safeline, (NRS) in Chicago, IL.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF), Family and Youth Services Bureau (FYSB), Division of Adolescent Development and Support (DADS) announces the award of a single-source program expansion supplement grant of $40,000 to the National Runaway Switchboard (NRS) to support activities associated with the 40th anniversary of the passage of the Runaway and Homeless Youth Act and the distribution of information to the general public on how to access NRS resources. NRS will also assist in producing a 40th Anniversary Public Service Announcement (PSA) commemorating the passage of the Runaway and Homeless Youth Act.

DATES: The period of support is from 08/01/2014 through 07/31/2015.

FOR FURTHER INFORMATION CONTACT: Christopher Holloway, Central Office Program Manager, Runaway and Homeless Youth Program, Division of Adolescent Development and Support, Family and Youth Services Bureau, 1250 Maryland Avenue SW., Washington, DC 20024. Telephone: 202–205–9560. Email: *Christopher.Holloway@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: NRS serves as the federally-designated national communication system for homeless and runaway youth. Through hotline and online services, NRS provides crisis intervention, referrals to local resources, and education and prevention services to runaway, homeless and at-risk youth and their families and communities throughout the country 24/7 year-round in a neutral and confidential manner.

NRS will work with the National Clearinghouse on Families and Youth on development of the PSA. The focus of this partnership will be to write the script that ties together the messaging for FYSB's RHY campaign. NRS will distribute the PSA to network and local TV stations and cable outlets for broadcast.

Statutory Authority: The Reconnecting Homeless Youth Act of 2008, Pub, L. 110–378, reauthorized the Runaway and Homeless Youth Act (RHYA) (42 U.S.C. 5714–11).

Christopher Beach,

Senior Grants Policy Specialist, Office of Administration, Office of Financial Services, Division of Grants Policy.

[FR Doc. 2014–27213 Filed 11–17–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: Evaluation of Cancer Control Leadership Forums at the Center for Global Health (CGH) (NCI).

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 15, 2014, Vol. 79, page 41295 and allowed 60-days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Brenda Kostelecky, Center for Global Health, National Cancer Institute, 9609 Medical Center Dr., RM 3W276, Rockville, MD 20850 or call non-toll-free number 240–276–5585 or Email your request, including your address to: *brenda.kostelecky@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Evaluation of Cancer Control Leadership Forums at the Center for Global Health (CGH) (NCI), 0925–NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This submission is a request for OMB to approve the Cancer Control Leadership Forums. These workshops are organized and funded by the National Cancer Institute's CGH in conjunction with various partners ranging from foreign Ministries of Health and research institutions, to international non-governmental organizations (NGOs) and U.S. academic institutions. The goal of the U.S. National Cancer Institute (NCI) Cancer Control Leadership Forums is to increase the capacity of participating countries to initiate or enhance cancer control planning and implementation in their respective countries. The Forums are an opportunity for countries to exchange experiences and ideas about creating and implementing comprehensive cancer control plans. The proposed evaluation requests information about the outcomes of the forums including (1) status of cancer control planning and implementation in each participating country, (2) outcomes related to the action plans (e.g. developing written materials, completion of action items, resources and support acquired), (3) successes and challenges related to the action plans, and (4) new cancer control partnerships and networks. Baseline information regarding the status of cancer control planning and implementation will be collected 3 months prior to the Forums in order to inform the development of each Forum. The evaluation information will be collected 3–24 months after each forum and is needed to evaluate the effectiveness of these workshops in order to inform future programming and funding decisions.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 108.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Instrument	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Chief Executives	3 Months Pre Workshop Form	18	1	2	36
	3 Months Post Workshop Interview	18	1	1	18
	6 Months Post Workshop Interview	18	1	1	18
	12 Months Post Workshop Interview	18	1	1	18
	24 Months Post Workshop Interview	18	1	1	18

Dated: November 12, 2014.

Karla Bailey,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2014–27263 Filed 11–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the National Advisory Neurological Disorders and Stroke Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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 Advisory Neurological Disorders and Stroke Council.

Date: January 29–30, 2015.

Open: January 29, 2015, 8:00 a.m. to 3:00 p.m.

Agenda: Report by the Director, NINDS; Report by the Associate Director for Extramural Research; Administrative and Program Developments.

Place: National Institutes of Health, Building 35—Porter Neuroscience Center, 35 Convent Drive, Porter Building Conference Room, Bethesda, MD 20892.

Closed: January 29, 2015, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 35—Porter Neuroscience Center, 35 Convent Drive, Porter Building Conference Room, Bethesda, MD 20892.

Closed: January 30, 2015, 8:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 35—Porter Neuroscience Center, 35 Convent Drive, Porter Building Conference Room, Bethesda, MD 20892.

Contact Person: Robert Finkelstein, Ph.D., Associate Director for Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Blvd., Suite 3309, MSC 9531, Bethesda, MD 20892, (301) 496–9248.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.ninds.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: November 12, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27215 Filed 11–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Date: December 1–2, 2014.

Time: December 1, 2014, 9:00 a.m. to 5:00 p.m.

Agenda: NCMRR report and NICHD report; collaborations with FDA; National Institute on Disability and Rehabilitation Research; Cancer rehabilitation.

Place: Hyatt Regency Bethesda Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Time: December 2, 2014, 8:30 a.m. to 12:00 p.m.

Agenda: NIH Center for Complementary and Alternative Medicine, Spinal cord research.

Place: Hyatt Regency Bethesda Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Ralph M. Nitkin, Ph.D., Acting Director, National Center for Medical Rehabilitation Research (NCMRR), Director, Biological Sciences and Career Development Program, NCMRR, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6100 Executive Boulevard, Room 2A03, Bethesda, MD 20892–7510, (301) 402–4206, *rn21e@nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/advisory/nabmrr/Pages/index.aspx* where the current roster and minutes from past meetings are posted.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children;

93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: November 13, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27349 Filed 11–17–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2014–0063]

Homeland Security Advisory Council—New Tasking

AGENCY: The Office of Policy, DHS.

ACTION: Notice of task assignment for the Homeland Security Advisory Council.

SUMMARY: The Secretary of the Department of Homeland Security (DHS), Jeh Johnson tasked his Homeland Security Advisory Council (HSAC) to establish a subcommittee entitled the Foreign Fighter Task Force on Thursday, October 29, 2014. The Foreign Fighter Task Force will provide ongoing recommendations to the Homeland Security Advisory Council on the foreign fighter threat and its impact on our homeland security.

This notice informs the public of the establishment of the Foreign Fighter Task Force and is not a solicitation for membership.

FOR FURTHER INFORMATION CONTACT: Ben Haiman, Deputy Executive Director, Homeland Security Advisory Council and Director, Foreign Fighter Task Force at 202–447–3135 or *Ben.Haiman@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Homeland Security Advisory Council provides organizationally independent, strategic, timely, specific, and actionable advice and recommendations for the consideration of the Secretary of the Department of Homeland Security on matters related to homeland security. The Homeland Security Advisory Council is comprised of leaders of local law enforcement, first responders, state and local government, the private sector, and academia.

Tasking: The Foreign Fighter Task Force will develop findings and recommendations in the following topic areas: (1) What strategies can the Department of Homeland Security employ to prevent Americans from joining foreign fighting efforts abroad? (2) Examine whether current border, immigration, and transportation security policies are appropriate in addressing the return of foreign fighters. (3) Recommend strategies to effectively prevent individuals, returning from foreign fighting experiences, from engaging in violence within their communities.

Schedule: The Foreign Fighters Task Force's findings and recommendations will be submitted to the Homeland Security Advisory Council for their deliberation and vote during its upcoming public meetings. Once the report(s) are voted on by the Homeland Security Advisory Council, they will be sent to the Secretary for his review and acceptance. The Foreign Fighter Task Force findings and recommendations will be submitted to the Homeland Security Advisory Council, first through an interim report, than on a standing basis thereafter following the publication of this tasking on the listed date.

Dated: November 12, 2014.

Mike Miron,

Director, Homeland Security Advisory Council, DHS.

[FR Doc. 2014–27201 Filed 11–17–14; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[15XD4523WK DWK000000.000000 DS64900000 DQ.64920.15COPER]

Proposed Renewal of Information Collection: 1090–0008, E-Government Web Site Customer Satisfaction Survey (Formerly American Customer Satisfaction Index (ACSI) E-Government Web Site Customer Satisfaction Survey)

AGENCY: Office of Strategic Employee and Organization Development, Federal Consulting Group, Interior.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Interior, 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 Federal Consulting Group within the Department of the Interior is soliciting comments concerning the E-Government Web site Customer Satisfaction Survey used by numerous Federal agencies to continuously assess and improve their Web sites.

DATES: Consideration will be given to all comments received by January 20, 2015.

ADDRESSES: Written comments may be submitted to the Federal Consulting Group, Attention: Richard Tate, 1849 C St NW., MS MIB 2256, Washington, DC 20240–0001. Comments may also be sent by facsimile to (202) 513–7686, or via email to *Richard_Tate@ios.doi.gov*. Individuals providing comments should reference Web site Customer Satisfaction Surveys.

FOR FURTHER INFORMATION CONTACT: To request additional information or copies of the form(s) and instructions, please write to the Federal Consulting Group (see contact information in the **ADDRESSES** section above).

SUPPLEMENTARY INFORMATION:

Title: E-Government Web site Customer Satisfaction Survey (Formerly American Customer Satisfaction Index (ACSI) E-Government Web site Customer Satisfaction Survey)

OMB Control Number: 1090–0008

Abstract: The proposed renewal of this information collection provides a means to consistently assess, benchmark and improve customer satisfaction with Federal Agency Web sites within the Executive Branch. The Federal Consulting Group of the Department of the Interior serves as the executive agent for this methodology and has partnered with ForeSee Results, Inc., to offer this assessment to Federal Agencies.

ForeSee Results is a leader in customer satisfaction and customer experience management on the web. Its methodology (Customer Experience Analytics or CXA) is a derivative of the most respected, credible, and well-known measure of customer satisfaction in the country, the American Customer Satisfaction Index (ACSI). This methodology combines survey data and a patented econometric model to precisely measure the customer satisfaction of Web site users, identify specific areas for improvement and determine the impact of those improvements on customer satisfaction and future customer behaviors.

The ForeSee CXA methodology is the only cross-agency methodology for obtaining comparable measures of customer satisfaction with Federal Government Web sites. The ultimate purpose of this methodology is to help improve the quality of goods and services available to American citizens, including those from the Federal Government.

The E-Government Web site Customer Satisfaction Surveys will be completed subject to the Privacy Act of 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 522a). The agency information

collection will be used solely for the purpose of the survey. The contractor will not be authorized to release any agency information obtained through surveys without first obtaining permission from the Federal Consulting Group and the participating agency. In no case will any new system of records containing privacy information be developed by the Federal Consulting Group, participating agencies, or the contractor collecting the data. In addition, participating Federal Agencies may only provide information sufficient to randomly select Web site visitors as potential survey respondents.

There is no other agency or organization able to provide the information that is accessible through the surveying approach used in this information collection. Further, the information will enable Federal agencies to determine customer satisfaction metrics with discrimination capability across variables. Thus, this information collection will assist Federal Agencies in improving their customer service in a targeted manner which will make best use of resources to improve service to the public.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: Proposed renewal of collection of information.

Type of Review: Renewal.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Number of Respondents: Participation by Federal Agencies in the E-Government Index is expected to vary as agency Web sites are added or deleted. However, based on historical records, projected average estimates for the next three years are as follows:

Average Expected Annual Number of Customer Satisfaction Surveys: 225.

Respondents: 1,125,000.

Annual responses: 1,125,000.

Frequency of Response: Once per survey.

Average minutes per response: 2.5.

Burden hours: 46,875 hours.

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 by appointment with the Federal Consulting Group at the contact information given in the **ADDRESSES** section. The comments, with names and addresses, will be available for public view during regular business hours. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to extent allowable by law.

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: November 10, 2014.

Jessica Reed,

Director, Federal Consulting Group.

[FR Doc. 2014–27222 Filed 11–17–14; 8:45 am]

BILLING CODE 4334–12–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[15XD4523WK DWK000000.000000 DS64900000 DQ.64920.15COPER]

Proposed Renewal of Information Collection: 1090–0007, American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Survey

AGENCY: Office of Strategic Employee and Organization Development, Federal Consulting Group, Interior.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Interior, 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 Federal Consulting Group within the Department of the Interior is soliciting comments concerning the American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Survey.

DATES: Consideration will be given to all comments received by January 20, 2015.

ADDRESSES: Written comments may be submitted to the Federal Consulting Group, Attention: Richard Tate, 1849 C St. NW., MS MIB 2256, Washington, DC 20240–0001. Comments may also be sent by facsimile to (202) 316–1697, or via email to *Richard_Tate@ios.doi.gov*. Individuals providing comments should reference Customer Satisfaction Surveys.

FOR FURTHER INFORMATION CONTACT: To request additional information or copies of the form(s) and instructions, please write to the Federal Consulting Group (see contact information provided in the **ADDRESSES** section above).

SUPPLEMENTARY INFORMATION:

Title: American Customer Satisfaction Index (ACSI) Government Customer Satisfaction Survey.

OMB Control Number: 1090–0007.

Abstract: The proposed renewal of this information collection provides a means to consistently assess, benchmark and improve customer satisfaction with Federal government agency programs and/or services within the Executive Branch. The Federal Consulting Group of the Department of the Interior serves as the executive agent for this methodology and has partnered with the

Claes Fornell International (CFI) Group and the ACSI organization to offer the methodology to Federal Agencies.

The CFI Group, a leader in customer satisfaction and customer experience management, offers a comprehensive model that quantifies the effects of quality improvements on citizen satisfaction. The CFI Group has developed the methodology and licenses it to the ACSI organization which produces the American Customer Satisfaction Index (ACSI) for different economic sectors and as an annual benchmark for customer service in the U.S. Government. The ACSI was introduced in 1994 by Professor Claes Fornell under the auspices of the University of Michigan, the American Society for Quality (ASQ), and the CFI Group. In 2008, the ACSI became an independent organization that continues to monitor and benchmark customer satisfaction across more than 200 companies and many U.S. Federal Agencies.

The ACSI is the only cross-agency methodology for obtaining comparable measures of customer satisfaction with Federal Government programs and/or services. Along with other economic objectives—such as employment and growth—the quality of output (goods and services) is a part of measuring living standards. The ACSI's ultimate purpose is to help improve the quality of goods and services available to American citizens.

ACSI surveys conducted by the Federal Consulting Group are completely subject to the Privacy Act 1074, Public Law 93–579, December 31, 1974 (5 U.S.C. 522a). The agency information collection is an integral part of conducting an ACSI survey. The contractor will not be authorized to release any agency information upon completion of the survey without first obtaining permission from the Federal Consulting Group and the participating agency. In no case shall any new system of records containing privacy information be developed by the Federal Consulting Group, participating agencies, or the contractor collecting the data. In addition, participating Federal agencies may only provide information used to randomly select respondents from among established systems of records provided for such routine uses.

There is no other agency or organization which is able to provide the information that is accessible through the surveying approach used in this information collection. Further, the information will enable Federal Agencies to determine customer satisfaction metrics with discrimination capability across variables. Thus, this information collection will assist Federal Agencies in improving their customer service in a targeted manner which will make best use of resources to improve service to the public.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: Proposed renewal of collection of information.

Type of Review: Renewal.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Number of Respondents: Participation by Federal agencies in the ACSI is expected to vary as new customer segment measures are added or deleted. However, based on historical records, projected average estimates for the next three years are as follows:

Average Expected Annual Number of Customer Satisfaction Surveys: 100.

Respondents: 80,000.

Annual responses: 80,000.

Frequency of Response: Once per survey.

Average minutes per response: 12.0.

Burden hours: 16,000 hours.

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 by appointment with the Federal Consulting Group at the contact information given in the Addresses section. The comments, with names and addresses, will be available for public view during regular business hours. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to extent allowable by law.

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: November 10, 2014.

Jessica Reed,

Director, Federal Consulting Group.

[FR Doc. 2014–27223 Filed 11–17–14; 8:45 am]

BILLING CODE 4334–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2014–0047; FXES11120500000]

Early Scoping for an Anticipated Application for Incidental Take Permit and Draft Habitat Conservation Plan; North Allegheny Wind Facility

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of scoping.

SUMMARY: Pursuant to the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA), we, the U.S. Fish and Wildlife Service (Service), announce our intent to prepare a NEPA document for an anticipated Incidental Take Permit (ITP) application and associated draft habitat conservation plan (HCP) from the North Allegheny Wind, LLC, a wholly owned subsidiary of Duke Energy Generating Services (or Duke Energy Renewables) for operation of their wind facility within occupied habitat of the northern long-eared bat (*Myotis septentrionalis*) and the federally listed endangered Indiana bat (*Myotis sodalis*). The northern long-eared bat has recently been proposed for listing as endangered under the ESA. Wind turbine operation has the potential to incidentally take Indiana bats and northern long-eared bats. Therefore, Duke Energy

Renewables is developing an ITP application and HCP to address this activity.

In advance of receiving the ITP application for this project, the Service is providing this notice to request information from other agencies, tribes, and the public on the scope of the NEPA review and issues to consider in the NEPA analysis and in development of the HCP.

DATES: We will accept comments received or postmarked on or before December 18, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit written comments by one of the following methods:

Electronically: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R5–ES–2014–0047, which is the docket number for this notice. Click on the appropriate link to locate this document and submit a comment.

By hard copy: Submit by U.S. mail or hand-delivery to Public Comments Processing, Attn: FWS–R5–ES–2014–0047; Division of Policy and Directives Management; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments by only the methods described above. We will post all information received on the Web site at: *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Lora Zimmerman, by mail at U.S. Fish and Wildlife Service, 315 South Allen Street, Suite 322, State College, PA 16801, or by telephone at 814–234–4090, extension 233.

SUPPLEMENTARY INFORMATION: We announce our intent to prepare a NEPA document for a pending ITP application and associated draft HCP from Duke Energy Renewables. Duke Energy Renewables currently owns and operates the North Allegheny Wind Project, a utility-scale wind generation facility in Blair and Cambria Counties, Pennsylvania. A map depicting the wind facility on the landscape can be viewed on the Service's Pennsylvania Field Office Web page; *http://www.fws.gov/northeast/pafo//pdf/NAW_LocationMap_100914.pdf* . The facility consists of 35 2-megawatt turbines, a network of electrical collector lines, and access roads. The facility is situated in predominantly forested lands that harbor the federally listed endangered Indiana bat and the proposed endangered northern long-eared bat. Construction of the facility was completed in 2008, and commercial operation began in September 2009. Take of one Indiana bat occurred in September 2011. As a result, the company has been operating at a cut in speed we believe that will avoid further take while permit materials are being developed and final decisions are made. As indicated above, wind turbine operation has the potential to incidentally take Indiana bats and northern long-eared bats. Therefore, Duke Energy Renewables is developing an ITP application and HCP to address these activities.

In advance of receiving the ITP application for this project, the Service is providing this notice to request information from other agencies, Tribes, and the public on the scope of the NEPA review and issues to consider in the NEPA analysis and in development of the HCP. We believe we can proceed with an Environmental Assessment (EA), with the caveat that we will use it to evaluate, in conjunction with the public comments, whether any significant impacts would require further analysis in an Environmental Impact Statement.

Request for Information

We request data, comments, information, and suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We will consider all comments we receive in complying with the requirements of NEPA and in the development of the HCP and ITP.

We seek comments particularly related to:

(1) Information concerning the biology, range, distribution, population size, and population trends of Indiana bats, northern long-eared bats, and other federally listed species that occur in Pennsylvania that could be affected by proposed covered activities;

(2) Relevant data and information concerning wind turbine operation and bat interactions; and

(3) Any other issues relating to the human environment and potential impacts that we should consider with regard to the covered activities and potential ITP issuance (e.g., cultural and historical resources, migratory birds, etc).

You may submit your comments and materials considering this notice by one of the methods listed in the **ADDRESSES** section.

Background

Indiana bats are listed as an endangered species under the ESA. The population decline of this species has historically been attributed to habitat loss and degradation of both winter hibernation habitat (hibernacula) and summer roosting habitat, human disturbance during hibernation, and possibly pesticides. A more recent threat to Indiana bats has been the emergence of white-nose syndrome (WNS), an infectious fungal disease that has led to significant population declines in some parts of the species' range, including the northeastern and southeastern United States.

The range of the Indiana bat includes much of the eastern United States, including Pennsylvania. Winter habitat for the Indiana bat includes caves and mines that support high humidity and cool-but-stable temperatures. In the summer, Indiana bats roost in trees (dead, dying, or alive) with exfoliating bark, cracks, crevices, and/or hollows. During summer, males roost alone or in small groups, while females and their offspring can roost in larger groups. Indiana bats forage for insects in and along the edges of forested areas and wooded stream corridors.

Northern long-eared bats have recently been proposed for listing as endangered under the ESA. WNS is the predominant threat to the species, though other threats may include impacts to hibernacula and summer habitat, and disturbance of hibernating bats. Northern long-eared bats have been abundant in the eastern United States and are often captured in summer mist nets surveys and detected during acoustic surveys. Northern long-eared bats are known to use forested habitats throughout Pennsylvania. Similar to Indiana bats, northern long-eared bats generally hibernate in caves and mines during the winter. During the summer, the bats roost in live or dead trees, though they are also known to use human-made structures such as barns, sheds, and bat boxes.

Bats are known to be killed in significant numbers by utility-scale wind turbines in the eastern United States. Bats have very low reproductive rates, with females of most species typically producing only one offspring per year. Fatalities resulting from wind facilities are considered to be additive to baseline fatalities, that is, they are fatalities above and beyond that which would be expected to occur due to baseline ecological and biological factors, such as old age, predation, and

climatic extremes. Furthermore, with respect to Indiana bats and northern long-eared bats, the additive mortality from wind facilities is expected to exacerbate population declines that have resulted from WNS.

The Federal action that will be analyzed through NEPA will be the potential issuance of an ITP to allow incidental take of Indiana bats and northern long-eared bats from wind turbines that will be described in the HCP. The HCP will incorporate avoidance, minimization, mitigation, monitoring, and reporting measures aimed at addressing the impact of the covered activities to Indiana bats and northern long-eared bats. A description of the covered lands is currently under development for the HCP, but will likely include the 35 turbines, turbine pads, electric lines, and access roads. The covered activities in the HCP are anticipated to include turbine operation, maintenance activities, decommissioning, and mitigation actions that have the potential to result in incidental take of Indiana bats and northern long-eared bats. Because curtailment of operating turbines is the only method presently known to effectively reduce bat fatalities due to wind turbine operation, this will likely be the primary minimization measure employed. The permit term is under development but is likely to be coextensive with the predicted operating life of the turbines, generally between 20–30 years.

The NEPA analysis will assess the direct, indirect, and cumulative impacts of the proposed Federal action on the human environment, comprehensively interpreted to include the natural and physical environment and the relationship of people with that environment. It will also analyze several alternatives to the proposed Federal action, to include no action, and other reasonable courses of action. Relevant information provided in response to this notice will aid in developing the draft HCP and NEPA analysis.

Next Steps

In this phase of the project, we are seeking information to assist development of the NEPA analysis and the draft HCP. We will then develop a draft NEPA document based on the ITP application, Applicant's draft HCP, any associated documents, and public comments received through this early scoping effort. We will then publish a notice of availability for the draft NEPA document and draft HCP and seek additional public comment before completing our final analysis to determine whether to issue an ITP.

Public Comments

The Service invites the public to provide comments that will assist our NEPA analysis during this 30-day public comment period (see **DATES**). You may submit comments by one of the methods shown under **ADDRESSES**.

Public Availability of Comments

We will post all public comments and information received electronically or via hardcopy at *http://regulations.gov.* All comments received, including names and addresses, will become part of the administrative record and will be available to the public. Before including your address, phone number, electronic mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—will be publicly available. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Authority

This notice is provided pursuant to NEPA regulations (40 CFR 1501.7 and 1508.22).

Dated: October 27, 2014.

Paul Phifer,

Assistant Regional Director, Ecological Services, Northeast Region.

[FR Doc. 2014–27255 Filed 11–17–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2014–N182; 40120–1112–0000–F2]

Amendment of a Joint Programmatic Candidate Conservation Agreement With Assurances and Safe Harbor Agreement, Upper Little Red River Watershed, Arkansas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Under the Endangered Species Act, we, the U.S. Fish and Wildlife Service, announce the receipt and availability of a revised joint Safe Harbor Agreement and Candidate Conservation Agreement with Assurances (revised agreement) and accompanying documents for establishing a programmatic enrollment of willing landowners by the parties to the revised agreement: Arkansas Game and Fish Commission, Natural Resources Conservation Service, The Nature Conservancy, and the Fish and Wildlife Service, Arkansas Ecological Services Field Office (parties). The revised agreement analyzes effects of conservation measures and certain land uses on two endangered species—the yellowcheek darter (*Etheostoma moorei*), a fish, and rabbitsfoot (*Quadrula cylindrica cylindrica*), a mussel—in the Upper Little Red River Watershed, northcentral Arkansas, so that these listed species, as well as 19 candidate and other unlisted species, might be added to those already covered by the existing enhancement of survival permits. We invite public comments on these documents.

DATES: We must receive any written comments at our Regional Office (see **ADDRESSES**) on or before December 18, 2014.

ADDRESSES: Documents are available for public inspection by appointment during normal business hours at the Fish and Wildlife Service's Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345; or at the Arkansas Ecological Services Field Office, Fish and Wildlife Service, 1500 Museum Road, Suite 105, Conway, AR 72032.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Harris, At-Risk Species Coordinator, at the Regional Office (see **ADDRESSES**), telephone: 404–679–7066; or Mr. Chris Davidson, Endangered Species Coordinator, at the Arkansas Field Office (see **ADDRESSES**), telephone: 501–513–4481.

SUPPLEMENTARY INFORMATION: We announce the availability of the revised Agreement, which incorporates the yellowcheek darter, rabbitsfoot, and 19 State species of concern. The yellowcheek darter and rabbitsfoot became federally listed after the original enhancement of survival permits were issued in February 2007. The yellowcheek darter was originally covered by the Candidate Conservation Agreement with Assurances, but would now be transferred under the Safe Harbor Agreement. The Service previously advertised (71 FR 53129), and issued enhancement of survival permits, TE138910 (Safe Harbor) and TE138911 (Candidate Conservation) as 30-year enhancement of survival permits covering the speckled pocketbook (*Lampsilis streckeri*) and yellowcheek darter, respectively.

The parties request amendment of the enhancement of survival permits, for their remaining terms, under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et*

seq.), as amended. The parties' revised agreement describes conservation practices designed to protect and enhance streambed and bankside habitats for the benefit of the yellowcheek darter, rabbitsfoot, and the 19 State species of concern on private or non-Federal public lands enrolled under the revised agreement.

We specifically request information, views, and opinions from the public via this notice on our proposed Federal action, including our determination that the revised agreement, including its proposed conservation measures, would have minor or negligible effects on the species covered by the revised agreement. Therefore, we determined that the revised agreement is a ''low-effect'' project and qualifies for categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). A low-effect project involves (1) minor or negligible effects on federally listed or candidates or their habitats, and (2) minor or negligible effects on other environmental values or resources. Further, we specifically solicit information regarding the adequacy of the revised agreement per 50 CFR parts 13 and 17.

The revised agreement describes land use practices and monitoring to ensure the continued survival of the covered species. Enrolled landowners who implement these measures would receive assurances against take liability for federally listed species, or for those species that might become federally listed in the future. Conservation land use practices will vary according to the needs of a particular enrolled landowner. Typical measures include controlling livestock access to streams; protection, enhancement, or restoration of streamside or in-stream habitats; species reintroduction to unoccupied suitable habitat; and other conservation measures that may be developed in the future.

Public Comments

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.

If you wish to comment, you may submit comments by any one of several methods. Please reference TE138910 or TE138911 in such comments. You may mail comments to the Fish and Wildlife Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to *david_dell@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from us that we have received your email message, contact us directly at either telephone number listed under **FOR FURTHER INFORMATION CONTACT**.

Finally, you may hand-deliver comments to either of our offices listed under **ADDRESSES**.

Covered Area

The revised agreement covers approximately 558,615 acres of potentially eligible lands in the Upper Little Red River watershed in northcentral Arkansas. Lands eligible to enroll in the revised agreement include any non-Federal properties within the watershed of the Upper Little Red River, Archey Fork, Middle Fork, South Fork, and Devils Fork upstream from Greers Ferry Reservoir.

Next Steps

We will evaluate the enhancement of survival permit amendment applications, including the revised agreement, and any comments we receive, to determine whether the amendment applications meet the requirements of section 10(a)(1)(A) of the Act. We will also evaluate whether amendment of the section 10(a)(1)(A) enhancement of survival permits would comply with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to amend the enhancement of survival permits. If we determine that the requirements are met, we will amend the enhancement of survival permits to add yellowcheek darter and rabbitsfoot to the Safe Harbor, and amend the Candidate Conservation Agreement to remove yellowcheek darter and to add the 19 species of State concern.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: October 23, 2014.

Mike Oetker,

Acting Regional Director.

[FR Doc. 2014–27232 Filed 11–17–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY920000–L14300000–EU0000; WYW–167526]

Notice of Realty Action: Modified Competitive Sealed Bid Sale of Public Land in Sweetwater County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer by modified competitive, sealed-bid sale, two parcels totaling 650 acres in Sweetwater County at no less than the fair market value (FMV) of $290,000 for parcel 1 and $210,000 for parcel 2 as determined by the October 29, 2013, appraisal. The sale will be subject to the applicable provisions of Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1713, and the BLM land sale regulations at 43 CFR 2710.

DATES: Interested parties may submit written comments to the BLM at the address below. The BLM must receive your comments on or before January 2, 2015. The BLM will accept sealed bids for the offered lands until January 20, 2015, 3 p.m. Mountain Time (MT). If the BLM determines to conduct the sale, the sealed bids will be opened on January 20, 2015, at the Rock Springs Field Office at 9 a.m. MT.

ADDRESSES: Send written comments concerning this notice to the Field Manager, BLM, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901–3447.

FOR FURTHER INFORMATION CONTACT: Patricia Hamilton, Realty Specialist, at email *phamilto@blm.gov* or by telephone at 307–352–0334. Public comments concerning this proposed sale may be mailed or emailed to *BLM_WY_Sweetwater_County_Land_Sale@blm.gov* by January 2, 2015. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The two parcels of public land will be sold individually. The parcels proposed for a modified competitive sale are approximately 6 miles northwest of Green River, Wyoming. The parcels are

in mixed land ownership pattern of public and private lands and are adjacent to Interstate 80. The subject public land is described as:

Parcel 1 containing 390.00 acres:

Sixth Principal Meridian

T. 18 N., R. 108 W.,
Sec. 10, W½W½NW¼NE¼, S½NE¼, NW¼, W½SW¼, N½NE¼SW¼ and N½N½SE¼.

Parcel 2 contains 260.00 acres:

Sixth Principal Meridian

T. 18 N., R. 108 W.,
Sec. 12, W½NW¼NE¼, S½NE¼, and NW¼.

The area described aggregate parcels 1 and 2 totaling 650.00 acres.

The parcels offered for the proposed modified competitive, sealed-bid sale are suitable for disposal and this action is in conformance with the Green River Resource Management Plan, Record of Decision approved on August 8, 1997. Conveyance of the identified public land will be subject to all valid existing rights of record.

On April 23, 2013, the BLM published a Notice of Realty Action in the **Federal Register** (78 FR24219) to segregate the parcels from appropriation under the public land laws, including the mining laws, for a period of 2 years from the date of publication. This notice will be published once a week for 3 weeks in the *Rock Springs Rocket Miner* and the *Green River Star* news media.

The use of the modified competitive, sealed-bid sale method is consistent with 43 CFR 2711.3–2. Under that provision, public lands may be offered for sale utilizing modified competitive bidding procedures when the authorized officer determines it is necessary in order to assure equitable distribution of land among purchasers or to recognize equitable considerations or public policies. Under the modified competitive bidding, procedure provided in 43 CFR 2711.3–2(a)(1)(i), a designated bidder is offered the right to meet the highest bid. Here the BLM has determined that the modified competitive procedures are appropriate because the City of Green River, Wyoming, has identified the parcels in question as part of the city's future growth and development. Because the land pattern consists of public and private land and adjacent to the interstate, the BLM has determined that, the designated bidder is the City of Green River. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

Factors to consider in determining when modified competitive procedures shall be used include, but are not limited to the needs of State and/or local government, adjoining landowners, historical users, and other needs for the parcel. This notice specifies the procedures for and method of modified competitive bidding, and a statement indicating the purpose or objective of the bidding procedures.

Sale Procedures: Sealed bid envelopes must be clearly marked with ''SEALED BID BLM LAND SALE, WYW–167526'' on the front lower left-hand corner of the envelope and contain the completed Certificate of Eligibility, stating the name, mailing address, and phone number of the entity/person making the bid. A Certificate of Eligibility is available online at *www.blm.gov/wy/st/en/info/NEPA/documents/rsfo/landsale.html* or by contacting the Rock Springs Field Office. Sealed bids must be equal to or greater than the appraised FMV of the land. Sealed bids must include a certified check, money order, bank draft, cashier's check, or any combination thereof, made payable to the Department of the Interior (DOI)–BLM for an amount not less than 20 percent of the total amount of the bid. Personal and company checks will not be accepted. Sealed bids will be opened and recorded to determine the high bidder. The highest qualifying bid received will be declared the high bid for the parcel. The modified competitive sale process allows the designated bidder (the City of Green River) the opportunity to meet the high bid.

The designated bidder, or their authorized representative, must be present at the bid opening. Should the designated bidder appoint a representative for this sale, they must submit in writing a notarized lawfully executed document identifying the level of capacity given to the designated representative signed by both parties. The designated bidder or its representative will have the opportunity to meet and accept the high bid as the purchase price. Should the designated bidder or its representative refuse to meet the high bid, the bidder submitting the high bid will be declared the successful bidder in accordance with 43 CFR 2711.3–2(c). Should the designated bidder meet the high bid, a 20 percent deposit immediately following the close of the sale must be submitted in the form of a certified check, postal money order, bank draft, cashier's check or any combination thereof, and made payable to the DOI–BLM. Bidders submitting matching high bid amounts for a parcel will be given an opportunity to submit a supplemental sealed bid.

Bid deposits submitted by unsuccessful bidders will be returned by United States mail or upon presentation of photo identification at the Rock Springs Field Office.

The successful bidder will be allowed 180 days from the date of sale to submit the remainder of the full bid price in the form of a certified check, money order, bank draft, cashier's check, or any combination thereof, made payable to the DOI–BLM. Personal and company checks will not be accepted. Arrangements for electronic fund transfer to the BLM for the payment balance due shall be made a minimum of 2 weeks prior to the payment date. Failure to submit the remainder of the full bid price prior to but not including the 180th day following the day of the sale, will result in the forfeiture of the 20 percent bid deposit to the BLM in accordance with 43 CFR 2711.3–1(d), and the parcel will be offered to the second high bidder at their original bid. No exceptions will be made. If no successful bids are received, then the parcels will remain available for sale on a continuing basis in accordance with competitive sale procedures found at 43 CFR 2711.3–1 without further legal notice. Bids submitted for unsold parcels will be opened on a monthly basis on the first Friday of each month at 10 a.m. MT at the Rock Springs Field Office, for a 6 month period.

The Federal law requires that qualified bidders must be: (a) A United States citizen 18 years of age or older; (b) A corporation subject to the laws of any State or of the United States; (c) A State, State instrumentality, or political subdivision authorized to hold real property; or (d) An entity legally capable of conveying and holding lands, or interests therein, under the laws of the State of Wyoming. Where applicable, the entity shall also meet the requirements of (a) and (b) of this section. United States citizenship is evidenced by presenting a birth certificate, passport or naturalization papers. Failure to submit the appropriate documents to BLM concurrently with the bid shall result in the ineligibility of the bidder.

Within 30 days of the sale, the BLM will provide written acceptance or rejection of all bids received. Pursuant to 43 CFR 2711.3–1, a bid is the bidder's offer to the BLM to purchase the parcel. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is submitted by the 180th day following the sale. Any name changes and all supporting documentation must be received at the Rock Springs Field Office within 30 days after the sale; otherwise, the patent will be issued to

the name(s) on the bidder statement that is completed and submitted. To change the name on the bidder statement, the successful bidder must notify the Rock Springs Field Office in writing, and submit a new Certificate of Eligibility bidder statement.

The parcel is subject to limitations prescribed by law and regulation, and certain encumbrances in favor of third parties. Prior to patent issuance, the holder of any right-of-way (ROW) within the parcel will be given the opportunity to amend the ROW for conversion to a new term, including perpetuity, if applicable, or conversion to an easement. The BLM will notify valid existing ROW holders of record of their ability to convert their compliant ROWs to perpetual ROWs or easements. In accordance with 43 CFR 2807.15, once notified each valid holder may apply for the conversion of their current authorization.

The patent, if issued, will be subject to all valid existing rights documented at the time of patent issuance, including the following terms, conditions, and reservations:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2. All minerals, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. Right-of-way WYE–020800 for Federal-Aid Highway purposes granted to Wyoming Department of Transportation (WYDOT), its successors or assigns pursuant to the Act of November 9, 1921 (42 STAT 216);

4. Right-of-way WYW–50037 for power transmission line purposes granted to PacifiCorp, its successors or assigns pursuant to the Act of March 4, 1911 (43 U.S.C. 961);

5. Right-of-way WYW–70796 for oil and gas pipeline purposes granted to Questar Overthrust Pipeline Company, its successors or assigns pursuant to the Act of February 25, 1920 (30 U.S.C. 185);

6. Right-of-way WYW–79512 for telephone purposes granted to Qwest Corporation, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

7. Right-of-way WYW–80361 for oil and gas pipeline purposes granted to Questar Pipeline Company, its successors or assigns pursuant to the Act of February 25, 1920 (30 U.S.C. 185);

8. Right-of-way WYW–81162 for power transmission line purposes granted to PacifiCorp, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

9. Right-of-way WYW–87149 for road purposes granted to the County of Sweetwater, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

10. Right-of-way WYW–96259 for telephone purposes granted to US Sprint, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

11. Right-of-way WYW–107528 for oil and gas pipeline purposes granted to Mountain Gas Resources, Inc., its successors or assigns pursuant to the Act of February 25, 1920 (30 U.S.C. 185);

12. Right-of-way WYW–128022 for material site purposes granted to the Federal Highway Administration, its successors or assigns pursuant to the Act of August 27, 1958 (23 U.S.C. 317(A));

13. Right-of-way WYW–145982 for telephone purposes granted to Qwest Corporation, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

14. Right-of-way WYW–147666 for telephone purposes granted to Broadwing Communication Services Inc., its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

15. Right-of-way WYW–153742 for telephone purposes granted to AT&T, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

16. Right-of-way WYW–154579 for communication site purposes granted to Union Telephone Company, Inc., its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C. 1761);

17. Right-of-way WYW–155228 for Federal-Aid Highway purposes granted to WYDOT, its successors or assigns pursuant to the Act of August 27, 1958 (23 U.S.C. 317(A));

18. Right-of-way WYW–167654 for oil and gas purposes granted to Questar Overthrust Pipeline Company, its successors or assigns pursuant to the Act of February 25, 1920 (30 U.S.C. 185);

19. Right-of-way WYW–167751 for power transmission line purposes granted to PacifiCorp, its successors or assigns pursuant to the Act of October 21, 1976 (43 U.S.C 1761);

20. Right-of-way WYW–083175 for Federal-Aid Highway purposes granted to WYDOT, its successors or assigns pursuant to the Act of November 9, 1921 (42 STAT 216); and

21. Right-of-way WYW–0315246 for Federal-Aid Highway purposes granted to WYDOT, its successors or assigns pursuant to the Act of August 27, 1958 (23 U.S.C. 317(A)).

By accepting this patent, the patentee agrees to indemnify, defend and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentee, its employees, agents, contractors, lessees or any third-party, arising out of, or in connection with, the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, lessees or third party arising out of or in connection with the use and/or occupancy of the patented real property resulting in: (1) Violations of Federal, State, and local laws and regulations applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States; (3) Costs, expenses, damages of any kind incurred by the United States; (4) Other releases or threatened releases on, into or under land, property and other interests of the United States by solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws; (5) Other activities by which solid or hazardous substances or wastes, as defined by Federal and State environmental laws were generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

The parcels may be subject to land use applications received if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcels. Encumbrances of record, appearing in the case files for the parcels offered for sale, are available for review during business hours, 7:45 a.m. to 4:30 p.m. MT, Monday through Friday, at the Rock Springs Field Office, except during federally recognized holidays.

The BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of an exchange is the bidder's responsibility. The BLM cannot be a party to any 1031 Exchange.

In order to determine the FMV through appraisal, certain extraordinary assumptions and hypothetical conditions may have been made concerning the attributes and limitations of the land and potential effects of local regulations and policies on potential future land uses. Through publication of this notice, the BLM advises that these assumptions may not be endorsed or approved by units of local government. It is the buyer's responsibility to be aware of all applicable Federal, State and local government laws, regulation and policies. This guidance may affect the subject lands, including any required dedication of lands for public uses. It is the buyer's responsibility to be aware of existing or projected use of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations and policies of the applicable local government for proposed future uses. It will be the responsibility of the purchaser to be aware through due diligence of those laws, regulations and policies, and to seek any required approvals for future uses. Buyers should also make themselves aware of any Federal or State law or regulation that may affect the future use of the property. Any land lacking access from a public road or highway will be conveyed as such and future access acquisition will be the responsibility of the buyer.

Information concerning the sale, appraisals, reservations, sale procedures and conditions, Comprehensive Environmental Response, Compensation and Liability Act, maps and other environmental documents and mineral report is available for review at the Rock Springs Field Office.

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. The BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an official or representative of a business or organization.

Any adverse comments regarding the sale will be reviewed by the Wyoming State Director or other authorized official of the Department of Interior who may sustain, vacate or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.1–2

Donald A. Simpson,

State Director, Wyoming.

[FR Doc. 2014–27209 Filed 11–17–14; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[15X.LLWO260000 L10600000 XQ0000]

Second Call for Nominations for the Wild Horse and Burro Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit public nominations for three positions on the Wild Horse and Burro Advisory Board (Board). The Board provides advice concerning the management, protection, and control of wild free-roaming horses and burros on public lands administered by the Department of the Interior, through the Bureau of Land Management (BLM), and the Department of Agriculture, through the U.S. Forest Service. The BLM will accept public nominations for 30 days after publication of this Notice.

DATES: Nominations must be post marked or submitted to the address listed below no later than December 18, 2014.

ADDRESSES: All mail sent via the U.S. Postal Service should be sent as follows: Division of Wild Horses and Burros, U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134 LM, Attn: Sarah Bohl, WO 260, Washington, DC 20240. All mail and packages that are sent via FedEx or UPS should be addressed as follows: Division of Wild Horses and Burros, U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134 LM, Attn: Sarah Bohl, Washington, DC 20003. You may also send a fax to Sarah Bohl at 202–912–7182, or email her at *stbohl@blm.gov*.

FOR FURTHER INFORMATION CONTACT: Sarah Bohl, Wild Horse and Burro Program Specialist, 202–912–7263. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Members of the Board serve without compensation. However, while away from their homes or regular places of business, Board and subcommittee members engaged in Board or subcommittee business, approved by the Designated Federal Official (DFO), may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under Section 5703 of Title 5 of the United States Code. Nominations for a term of 3 years are needed to represent the following categories of interest:

- Wild Horse and Burro Advocacy;
- Veterinary Medicine (equine science); and
- Public Interest (with special knowledge about protection of wild horses and burros, management of wildlife, animal husbandry, or natural resource management).

The Board will meet one to four times annually. The DFO may call additional meetings in connection with special needs for advice. Individuals may nominate themselves or others. Any individual or organization may nominate one or more persons to serve on the Board. Nominations will not be accepted without a complete resume. The following information must accompany all nominations for the individual to be considered for a position:

1. The position(s) for which the individual wishes to be considered;
2. The individual's first, middle, and last name;
3. Business address and phone number;
4. Home address and phone number;
5. Email address;
6. Present occupation/title and employer;
7. Education (colleges, degrees, major field of study);
8. Career Highlights: Significant related experience, civic and professional activities, elected offices (include prior advisory committee experience or career achievements related to the interest to be represented). Attach additional pages, if necessary;
9. Qualifications: Education, training, and experience that qualify you to serve on the Board;
10. Experience or knowledge of wild horse and burro management;
11. Experience or knowledge of horses or burros (Equine health, training, and management);
12. Experience in working with disparate groups to achieve

collaborative solutions (e.g., civic organizations, planning commissions, school boards, etc.);

13. Identification of any BLM permits, leases, or licenses held by the individual or his or her employer;

14. Indication of whether the individual is a federally registered lobbyist; and

15. Explanation of interest in serving on the Board.

At least one letter of reference sent from special interests or organizations the individual may represent, including, but not limited to, business associates, friends, co-workers, local, State, and/or Federal government representatives, or members of Congress should be included along with any other information that is relevant to the individual's qualifications. As appropriate, certain Board members may be appointed as special government employees. Special government employees serve on the Board without compensation and are subject to financial disclosure requirements in the Ethics in Government Act and 5 CFR 2634. If you have already submitted a nomination in response to the Notice of Call for Nominations for the Wild Horse and Burro Advisory Board, which published in the **Federal Register** on August 29, 2014 (79 FR 51601), you will not need to resubmit a nomination. Nominations are to be sent to the address listed under **ADDRESSES** above.

Privacy Act Statement: The authority to request this information is contained in 5 U.S.C. 301, the Federal Advisory Committee Act (FACA), and 43 CFR part 1784. The appointment officer uses this information to determine education, training, and experience related to possible service on a BLM advisory council. If you are appointed as an advisor, the information will be retained by the appointing official for as long as you serve. Otherwise, it will be destroyed 2 years after termination of your membership or returned (if requested) following announcement of the Board's appointments. Submittal of this information is voluntary. However, failure to complete any or all items will inhibit fair evaluation of your qualifications, and could result in you not receiving full consideration for appointment.

Membership Selection: Individuals shall qualify to serve on the Board because of their education, training, or experience that enables them to give informed and objective advice regarding the interest they represent. They should demonstrate experience or knowledge of the area of their expertise and a commitment to collaborate in seeking solutions to resource management issues. The Board is structured to provide fair membership and balance, both geographic and interest specific, in terms of the functions to be performed and points of view to be represented. Members are selected with the objective of providing representative counsel and advice about public land and resource planning. No person is to be denied an opportunity to serve because of race, age, sex, religion, or national origin. The Obama Administration prohibits individuals who are currently federally registered lobbyists to serve on all FACA and non-FACA boards, committees or councils. Pursuant to Section 7 of the Wild Free-Roaming Horses and Burros Act, members of the Board cannot be employed by either Federal or State governments.

Authority: 43 CFR 1784.4–1.

Joe Stout,

Acting Deputy Assistant Director, Resources and Planning.

[FR Doc. 2014–27273 Filed 11–17–14; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON06000 L16100000.DP0000]

Notice of Intent To Solicit Nominations for the Dominguez-Escalante National Conservation Area Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Secretary of the Interior (Secretary) was directed by the Omnibus Public Lands Management Act of 2009 to establish the Dominguez-Escalante National Conservation Area (D–E NCA) Advisory Council (Council). The 10-member Council was formed in December 2010 to provide recommendations to the Secretary through the Bureau of Land Management (BLM) during the development of a resource management plan (RMP) for the D–E NCA. This call for nominations is to fill two of the 10 seats on the Council. The appointments for these two members are scheduled to expire in January 2015.

DATES: Submit nomination packages on or before December 18, 2014.

ADDRESSES: Send completed Council nominations to D–E NCA Interim Manager Collin Ewing, Grand Junction Field Office, 2815 H Road, Grand Junction, CO 81506. Nomination forms may be obtained at the Grand Junction Field Office at the above address; at the BLM Uncompahgre Field Office, 2465 South Townsend Avenue, Montrose, CO 81401; or online at *http://www.blm.gov/co/st/en/nca/denca/denca_rmp/DENCA_Resource_Advisory_Council.html.*

FOR FURTHER INFORMATION CONTACT: Collin Ewing, D–E NCA Interim Manager, 970–244–3049, *cewing@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The D–E NCA and Dominguez Canyon Wilderness, located within the D–E NCA, were established by the Omnibus Public Land Management Act of 2009, Public Law 111–11 (Act). The D–E NCA is comprised of approximately 210,172 acres of public land, including approximately 66,280 acres designated as Dominguez Canyon Wilderness located in Delta, Montrose and Mesa counties, Colorado. The purpose of the D–E NCA is to conserve and protect the unique and important resources and values of the land for the benefit and enjoyment of present and future generations. These resources and values include the geological, cultural, archaeological, paleontological, natural, scientific, recreational, wilderness, wildlife, riparian, historical, educational, and scenic resources of the public lands; and the water resources of area streams based on seasonally available flows that are necessary to support aquatic, riparian, and terrestrial species and communities.

According to the Act, the 10-member Council is to include, to the extent practicable:

1. One member appointed after considering the recommendations of the Mesa County Commission;

2. One member appointed after considering the recommendations of the Montrose County Commission;

3. One member appointed after considering the recommendations of the Delta County Commission;

4. One member appointed after considering the recommendations of the permittees holding grazing allotments within the D–E NCA or the wilderness; and

5. Six members who reside in, or within reasonable proximity to Mesa, Delta or Montrose counties, Colorado, with backgrounds that reflect:

a. The purposes for which the D–E NCA or wilderness was established; and

b. The interests of the stakeholders that are affected by the planning and management of the D–E NCA and wilderness.

The two solicited applications will replace the Council member representing Delta County and a Council member representing wildlife interests. The new nominations should ensure that the Council remains representative of the stakeholder groups and geographical areas with an interest in the management of the D–E NCA, as mandated by the Omnibus Public Lands Management Act of 2009 (Act). Any individual or organization may nominate one or more persons to serve on the Council. Individuals may nominate themselves for Council membership. The Obama Administration prohibits individuals who are currently federally registered lobbyists from serving on all Federal Advisory Committee Act (FACA) and non-FACA boards, committees or councils. Nomination forms may be obtained from the BLM Grand Junction or Uncompahgre field offices or downloaded from the following Web site: *http://www.blm.gov/co/st/en/nca/denca/denca_rmp/DENCA_Resource_Advisory_Council.html.*

Nomination packages must include a completed nomination form, letters of reference from the represented interests or organizations, and any other information relevant to the nominee's qualifications. Letters of reference can be from an organization or from anyone who is familiar with the nominee's ability to speak as an expert on the topic of interest. Nominations are open to new and currently seated members. The Grand Junction and Uncompahgre field offices will review the nomination packages in coordination with the affected counties and the Governor of Colorado before forwarding recommendations to the Secretary, who will make the appointments.

The Council shall be subject to the FACA, 5 U.S.C. App. 2; and the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.*

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2014–27267 Filed 11–17–14; 8:45 am]

BILLING CODE 4310–4B–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14X AF1109 LLUTG01210 L12200000.MA0000 24 1A]

Notice of Temporary Closure for Selected Public Lands in Uintah and Grand Counties, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: As authorized under the provisions of the Federal Land Policy and Management Act of 1976, notice is hereby given that certain public lands near P.R. Springs developed camping site in Utah were temporarily closed to overnight camping. This closure provided for public health and safety due to serious concerns noted by the Utah Division of Wildlife Resources regarding the potential for human-bear conflicts in the area.

DATES: *Effective:* The temporary closure to overnight camping was in effect from July 30, 2014 through August 13, 2014.

FOR FURTHER INFORMATION CONTACT: Michelle Brown, Assistant Field Manager Resources, BLM Utah Vernal Field Office, telephone: 435–781–4400, email: *m2brown@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM's regulations at 43 CFR 8364(c) require that this notice of closure be published in the **Federal Register** even though the lands reopened on August 14, 2014. The temporary closure affected public lands within and adjacent to the P.R. Springs developed camping site. This closure applied to all overnight camping in both developed and dispersed camping areas. The public lands affected by this closure are described as follows:

A 5-mile radius surrounding the area known as P.R. Springs, specifically located at

Salt Lake Meridian, Utah

T. 15 S., R. 23 E.,
Sec. 36, SE¼SE¼.

The closure was announced on July 30, 2014. The closure notice and map of the closure area were posted at the BLM Utah Vernal Field Office, 170 South 500 East, Vernal, UT, and on the BLM Web site: *http://www.blm.gov/ut/st/en/fo/vernal.html.* Signs were posted on roads leading into the lands under closure to notify the public of the temporary closure. The following were exceptions to the closure:

(1) Day use between the hours of 6 a.m. and 9 p.m.;

(2) Any Federal, state, or local officer or employees in the scope of their official duties;

(3) Members of any organized rescue or firefighting force in performance of an official duty;

(4) Vehicles owned by the United States, the State of Utah, and Uintah and Grand Counties; and

(5) Any person authorized in writing by the BLM Utah Vernal Field Manager.

Penalties: Any person who violates the above rules and restrictions may be tried before a United States Magistrate and fined no more than $1,000, imprisoned for no more than 12 months, or both. Such violations may also be subject to enhanced fines provided for under Title 18, U.S.C. Sections 3571.

Authority: 43 CFR 8364.1

Approved:

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–27266 Filed 11–17–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02630000, 14XR0680A2, RX191247001000000]

Notice of Availability of Resource Management Plan and Final Environmental Impact Statement for the Newlands Project, Nevada

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation (Reclamation) has prepared the Resource Management Plan/Final Environmental Impact Statement (Final RMP/EIS) for the Newlands Project. This Final RMP/EIS provides a range of alternatives for managing Reclamation-administered lands in the Newlands Project Planning Area, which is in the west-central Nevada counties of Washoe, Storey, Lyon, and Churchill.

DATES: Reclamation will not make a decision on the proposed action until at least 30 days after release of the Final RMP/EIS. After the 30-day waiting period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: Please send any correspondence to Mr. Bob Edwards, Resources Division Manager, Bureau of Reclamation, 705 N. Plaza Street, Room 320, Carson City, NV 89701; via fax at 775–882–7592; or by email to *redwards@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Bob Edwards at 775–884–8342. The Final RMP/EIS will be available from the following Web site: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=2822.* See the **SUPPLEMENTARY INFORMATION** section for locations where copies of the Final RMP/EIS are available for public review.

SUPPLEMENTARY INFORMATION: A Notice of Availability of the Draft RMP/EIS was published in the **Federal Register** on May 28, 2013 (78 FR 31974). The comment period on the Draft RMP/EIS ended on July 29, 2013. The Final RMP/EIS contains responses to all comments received and reflects comments and any additional information received during the review period.

The Newlands Project provides irrigation water from the Truckee and Carson Rivers for cropland in the Lahontan Valley near Fallon and benchlands near Fernley in western Nevada through a series of diversions, canals, dams, and reservoirs. The Newlands Project Planning Area (Planning Area) encompasses approximately 442,000 acres surrounding the Newlands Project facilities and is composed of all Bureau of Reclamation (Reclamation)-administered lands, including water bodies, managed as part of the Newlands Project.

The Newlands Project lands have been administered to date in accordance with applicable directives, and standards. The purpose of the Newlands Project RMP is to provide a single, comprehensive land use plan that will guide contemporary resource and recreation needs of the Federal lands administered by Reclamation in the Planning Area. The RMP will help support the Newland Project's authorized purposes: Water supply, recreation, water quality, support of fish and wildlife, and any other purposes recognized as beneficial under the laws of Nevada.

This RMP addresses the use of Federal lands administered by Reclamation in the Planning Area that are ancillary to the primary purpose of providing water for irrigation. The water resource itself and the facilities and infrastructure used to transport and store water are excluded from this RMP.

This Final RMP/EIS addresses the interrelationships among the various resources in the Planning Area and provides management options to balance resource management between Reclamation's mission and authority, and the needs of the public to use these lands. Reclamation's authority to prepare the RMP is outlined in the Reclamation Recreation Management Act of 1992 (Pub. L. 102–575, Title 28).

The purposes of the Newlands Project RMP are as follows:

- Provide a framework to ensure Reclamation plans and activities comply with all appropriate Federal, State, and local laws, rules, regulations, and policies;
- Provide for the protection and management of natural and cultural resources and public health and safety;
- Provide for non-water based recreation management and development and other uses consistent with contemporary and professional resource management and protection theories, concepts, and practices; and
- Be consistent with Reclamation's fiscal goals and objectives.

The RMP is needed because no unifying management plan exists to guide Reclamation in achieving the demands listed above.

Proposed Resource Management Plan

Three management alternatives were developed to address the major planning issues. Each alternative provides direction for resource programs based on the development of specific goals and management actions. Each alternative describes specific issues influencing land management and emphasizes a different combination of resource uses, allocations, and restoration measures to address issues and resolve conflicts among users. Resource program goals are met in varying degrees across alternatives. Management scenarios for programs not tied to major planning issues or mandated by laws and regulations often contain few or no differences in management between alternatives. The alternatives vary in the degree to which activities are allowed or restricted, the amount of access allowed for activities, and the amount of mitigation or restoration required for authorized activities. Grazing is where the alternatives differ the most and was of most interest to the public during scoping.

Copies of the Final RMP/EIS are available for public review at the following locations:

- Washoe County Library, Fernley Branch Lyon County Library, and the Churchill County Library
- Natural Resources Library, Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240
- Bureau of Reclamation, Lahontan Basin Area Office, 705 N. Plaza Street, Room 320, Carson City, NV

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in any correspondence, you should be aware that your entire correspondence—including your personal identifying information—may be made publicly available at any time. While you can ask us in your correspondence to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 8, 2014.

Jason R. Phillips,

Deputy Regional Director.

[FR Doc. 2014–27272 Filed 11–17–14; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–526–527 and 731–TA–1262–1263 (Preliminary)]

Melamine From China and Trinidad and Tobago

Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–526–527 and 731–TA–1262–1263 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and Trinidad and Tobago of melamine, provided for in subheading 2933.61.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of China and Trinidad and Tobago and are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the

time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by Monday, December 29, 2014. The Commission's views must be transmitted to Commerce within five business days thereafter, or by Tuesday, January 6, 2015.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* Wednesday, November 12, 2014.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on Wednesday, November 12, 2014, by Cornerstone Chemical Company, Waggaman, Louisiana.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Wednesday, December 3, 2014, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before Monday, December 1, 2014. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before Monday, December 8, 2014, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 Fed. Reg. 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 Fed. Reg. 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: November 12, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–27227 Filed 11–17–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0003]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Fee Waiver Request

AGENCY: Executive Office for Immigration Review, Department of Justice

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** Volume 79, Number 178, page 55015, on September 15, 2014, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until December 18, 2014.

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 Jeff Rosenblum, General Counsel, USDOJ–EOIR–OGC, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 20530; telephone: (703) 305–0470, or the DOJ Desk Officer at 202–395–5806. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice

Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) Title *of the Form/Collection:* Fee Waiver Request.

(3) *Agency form number:* EOIR–26A (OMB #1125–0003).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: An individual submitting an appeal or motion to the Board of Immigration Appeals. Other: Attorneys or representatives representing an alien in immigration proceedings before EOIR. Abstract: The information on the fee waiver request form is used by the Board of Immigration Appeals to determine whether the requisite fee for a motion or appeal will be waived due to an individual's financial situation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 8,614 respondents will complete each form within approximately 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 8,614 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: November 13, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–27250 Filed 11–17–14; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Richard D. Vitalis, D.O.; Decision and Order

On August 12, 2013, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Richard D. Vitalis, D.O. (Applicant), of Debary, Florida. GX 1. The Show Cause Order proposed the denial of Applicant's application for a DEA Certificate of Registration on the ground that his continued ''registration would be inconsistent with the public interest.'' *Id.* at 2 (citing 21 U.S.C. 823(f)).

The Show Cause Order made numerous allegations against Applicant. First, it stated that on October 1, 2008, the Florida Department of Health (DOH) entered an emergency suspension of Applicant's medical license on the basis of his history of alcohol dependency and his failure to comply with DOH orders requiring the monitoring of his medical practice. *Id.* The Order then specifically alleged that after reinstatement of his Florida medical license on March 26, 2009, Applicant materially falsified three applications for a DEA registration when he falsely answered ''no'' on each application to the liability question which asks: ''Has the applicant ever surrendered (for cause) or had a state professional license or controlled substances registration revoked, suspended, denied, restricted or place on probation?'' *Id.* at 2–3 (citing 21 U.S.C. 843(a)(4)(A)). The Order alleged that Applicant submitted these applications on October 5, 2009; May 22, 2012; and January 7, 2013. *Id.*

The Show Cause Order also alleged that on October 6, 2009, Applicant became registered as a practitioner to handle schedule II controlled substances under DEA registration number FV1682269, at the registered address of 230 Caddie Court, Debary, Florida. The Order then alleged that between July 2010 and June 3, 2011, Applicant ''issued and/or authorized prescriptions for controlled substances in Schedules 2N, 3, 3N, 4 and 5, for which [he] did not have the authority to handle, in violation of 21 U.S.C. 822(b).'' *Id.* at 3. The Show Cause Order also alleged that on June 3, 2011, Applicant's registration was modified to add all schedules. *Id.*

Next, the Show Cause Order alleged that between July 7, 2011 and March 22, 2012, three law enforcement officers made six undercover visits to Applicant at All Family Medical (hereinafter, AFM), a state-registered pain management clinic. *Id.* The Order then alleged that at the conclusion of each visit, Applicant prescribed Schedule II and IV controlled substances, including oxycodone and Xanax, to the undercover officers, for other than a legitimate medical purpose and outside the usual course of professional practice in violation of applicable federal, state and local law. *Id.* at 3–4 (citing 21 CFR 1306.04(a)).

The Show Cause Order further alleged that a medical expert reviewed the undercover visits and determined that Applicant prescribed unnecessary and excessive doses of controlled substances to the undercover officers, in deviation from the standard of care in pain medicine. *Id.* at 4–5. The Order alleged that the Expert further found that Applicant failed to comply with Florida's standards for the use of controlled substances for the treatment of pain, and that the prescriptions were issued for other than a legitimate medical purpose and outside the usual scope of professional practice. *Id.* at 5 (citing Fla. Stat. § 456.44; Fla. Admin. Code r.64B15–14.005; 21 CFR 1306.04(a)).

Finally, the Show Cause Order alleged that on January 1, 2012, D.V., a 34-year old male died as a result of an accidental overdose of controlled substances. *Id.* The Order then alleged that on December 27, 2011, Applicant issued prescriptions to D.V. for 180 tablets of oxycodone 30mg, 120 tablets of oxycodone 15mg, 40 tablets Percocet 10/325 mg, 60 tablets of alprazolam 2mg, and 90 tablets of Motrin 800mg, and that the prescriptions ''were for other than a legitimate medical purpose and outside the usual scope of professional practice.'' *Id.* (citing 21 CFR 1306.04(a)).

The Show Cause Order, which also notified Applicant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence of failing to elect

either option, was served on Applicant by certified mail addressed to him at his proposed registered address. As evidenced by the signed return-receipt card, service was accomplished on August 27, 2013.

Since that date, more than thirty days have now passed and neither Applicant, nor anyone purporting to represent him, has requested a hearing or submitted a written statement in lieu of a hearing. Accordingly, I find that Applicant has waived his right to a hearing or to submit a written statement on the allegations of the Show Cause Order. 21 CFR 1301.43(c) & (d). I therefore issue this Decision and Order based on the investigative record submitted by the Government and make the following findings of fact.

Findings

Applicant's Licensure and Registration Status

Applicant is an osteopathic physician licensed by the Florida DOH. On October 1, 2008, the DOH ordered the emergency suspension of his medical license, on the ground that Applicant had been diagnosed with alcohol dependency and that absent monitoring by the Professional Resource Network, his continued practice of osteopathic medicine constituted an immediate and serious danger to the health, safety and welfare of the public. GX 10, at 9–10. However, on March 26, 2009, the DOH reinstated his Florida medical license. Government Request for Final Agency Action (Gov. Request), at 2.

During this period, Applicant held a DEA practitioner's registration, pursuant to which he was authorized to dispense controlled substances in schedules II though V. GX 4. However, on May 31, 2009, Applicant allowed his registration to expire and the number was subsequently retired by the Agency. *Id.* at 2.

On October 5, 2009, Applicant applied for a new DEA practitioner's registration at an address in Debary, Florida. On the application, Applicant sought authority to dispense schedule II narcotics and no other controlled substances. GX 4, at 7. Applicant was also required to answer four questions, including Question Three which asked: ''Has the applicant ever surrendered (for cause) or had a state professional license or controlled substances registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?'' GX 4, at 11. Applicant answered ''no.'' *Id.* The following day, DEA issued Applicant a new registration which was limited to schedule II. *Id.* at 7. Applicant did not submit a request to add the additional drug schedules until June 6, 2011. GX 8, at 3.

On December 2, 2010, Applicant requested a change in his registered address to ''The Center for Wellness and Weight Loss D/B/A All Family Medical,'' a pain management clinic located in North Lauderdale, Florida. GX 4, at 7; GX 8, at 2 (DI Declaration). Applicant's request was approved. GX 4, at 7; GX 8, at 2.

On May 22, 2012, Applicant submitted a renewal application for his registration. *Id.* at 3. Once again, he provided a ''no'' answer to Question Three. GX 4, at 8; *see also* GX 8, at 3. The next day, DEA Agents and Task Force Officers (who had previously conducted undercover operations), along with members of the Broward County Sheriff's Office, executed a federal search warrant at AFM. GX 8, at 3.

On July 27, 2012, an Order to Show Cause and Immediate Suspension Order was personally served on Applicant. *Id.* While Applicant filed a timely hearing request, prior to the hearing date, Applicant's counsel advised the Government that he would submit a voluntary surrender in lieu of a hearing. *Id.* at 4. On December 20, 2012, the Miami Field Office received a letter which voluntarily surrendered Applicant's registration and his registration was subsequently retired from the DEA registration system. *Id.; see also* GX 4, at 7.

On January 4, 2013, Applicant again applied for a registration as a practitioner in Schedules II–V, at the address of 230 Caddie Court, Debary, Florida, 32713. GX 4, at 1. Question Two asked: ''Has the applicant ever surrendered (for cause) or had a federal controlled substance registration revoked, suspended, restricted or denied, or is any such action pending?'' *Id.* at 4. Applicant answered ''Yes.'' *Id.* However, in response to Question Three, Applicant again answered ''No.'' *Id.*

The DEA Investigation

Between July 7, 2011 and March 22, 2012, three law enforcement officers, acting in an undercover capacity, made a total of six visits to AFM.[1] GX 11, GX 24, GX 30. The Officers were able to see Applicant five times and were successful at obtaining controlled substance prescriptions at each of these visits.

DEA Task Force Officer M.C., using an undercover name with the same initials, visited AFM on July 7, 2011; August 11, 2011; and September 8, 2011. Declaration of M.C., at 2.

On each visit, he was equipped with a device which recorded his interactions with Applicant. The evidence includes the audio recordings, as well as a transcribed record of the portion of the visit during which M.C. met with Applicant. GX 12, 13, 15, 16, 18, 19.

During his first visit, M.C. filled out a pain management questionnaire and rated his average pain at a 5 on a scale from 1 to 10, with 10 being ''pain as bad as you can imagine.'' GX 5, at 43. He underwent a urine screening, which showed that he had no controlled substances in him. GX 11, at 2. At some point unspecified in the record, his weight, blood pressure and pulse were recorded on an ''Intake Form''; this form also stated that his CC (chief complaint) was ''chronic LBP'' and ''shoulder pain.'' GX 5, at 38. Handwritten notes under the Examination and Symptoms Findings are largely undecipherable. *Id.*

The patient record also includes a form, which is appropriately mistitled as: ''Medical Justifiction (sic) Form for Prescribing More Than a 72 Hour Dose of Controlled Substance for the Treatment of Non-Malignant Pain'' [2]; this form was signed by Applicant and dated July 7, 2011. On the form, Applicant checked the box next to the section which reads:

> I have performed an adequate physical examination of this patient this same day utilizing the standard of practice required by the Florida Board of Medicine for physicians practicing in a pain management clinic, and I find that his/her medical condition justifies the use of this medication to treat such condition.[3]

GX 5, at 19. Directly below this statement is a place for comments, which appear to be in Applicant's handwriting, but which are illegible. *Id.*

M.C.'s file also includes a form, entitled ''Pain Management Treatment Plan Medical Record'' (Treatment Plan), which appears to track the various

[1] This location is also known by an alternate address, 995 Rock Island Rd, North Lauderdale, FL 33068 as referenced by the UCs in their declarations. *See* GXs 11, 24, 30.

[2] This form states that: ''Pursuant to Florida Code Section 458.32654(2)(c) a physician who prescribes more than a 72 hour dose of a controlled substance must document in the patient's record the reason for prescribing that quantity. If it is found by the applicable regulatory agencies that this clinic qualifies as a pain clinic under such Florida Statute, I hereby document the following medical justification for prescribing the amounts prescribed to this patient.'' GX 5, at 19.

[3] An identical form is found in the medical file for each visit made by the undercovers, each indicating that ''an adequate physical exam had been performed utilizing the standards of practice required by the Florida Board of Medicine.'' Each form contains brief, illegible handwritten notes.

components of the guidelines [4] adopted by the Florida Board of Osteopathic Medicine as part of its regulations entitled ''Standards for the Use of Controlled Substances for Treatment of Pain.'' *See* Fla. Admin. R.64B15–14.005. Several of the form's sections list various line items with either a place to check ''yes'' or ''no'' or to check applicable boxes; in addition, several sections have a place for the physician to write notes. *See* GX 5, at 15–18.

With respect to the first section of this form, which pertains to the patient evaluation, the form indicates that a pain survey was completed. *Id.* at 15. While this portion of the form contains places to indicate whether therapeutic goals were discussed, whether a functional assessment was performed, whether social and drug use histories were taken, whether a medication use assessment was done and whether prior records were reviewed, Applicant checked neither the yes nor the no line and the corresponding notes section contains two indecipherable words. *Id.* So too, the medical diagnosis section appears to simply state ''as above.'' *Id.*

As for the treatment objectives, check marks are placed next to entries for ''improvement of pain without complete resolution,'' ''ability to return to some sort of employment,'' and ''return to certain level of physical activity,'' but no further notes were made. *Id.* at 16. As for non-medication treatments, which lists ten different modalities, the word ''cold'' is circled but none of the boxes are checked. *Id.* Applicant checked ''yes'' to indicate that he had discussed the risks and benefits of controlled substances with M.C. *Id.* at 17. He also indicated that drug testing had been completed, but left blank the results. *Id* at 18. Yet other evidence in M.C.'s record shows that his urine drug screen was negative.[5] *Id.* at 40.

The audio recording of the initial office visit reveals Applicant greeted M.C. and stated, ''I understand you've been having some low back pain,'' to which M.C. replied: ''yeah low back pain and, like, my shoulder's bugging me too.'' GX 12; GX 13, at 1. M.C. told Applicant he did not have an MRI of his shoulder because it was an additional charge to the MRI for his back. GX 13, at 1.

M.C. told Applicant that he controlled his pain by taking oxycodone, and that ''it's really the only thing that's helped. I've done . . . Advil and Tylenol, but it doesn't really help me.'' *Id.* Applicant stated ''so it's partially controlled with those, but you get much better pain relief when you take Roxicodone.'' *Id.* He then asked if M.C. had ''taken anything else, like hydrocodone,'' to which M.C. replied: ''No. Just the blue thirties (30's).'' *Id.*

Applicant then asked M.C. what was wrong with his shoulder. M.C. replied: ''it's just more sore. Cause right after I play it will be sore for a couple days and . . . it kinda goes away.'' *Id.* Next, Applicant asked M.C. whether he had undergone surgeries; whether he used tobacco, alcohol and either illegal or illicit drugs; and if there was a family history of various diseases. *Id.* Applicant then listened to M.C.'s breathing with a stethoscope.

After asking about M.C.'s work, Applicant stated he had ordered Roxicodone and Ibuprofen to help control his pain. *Id.* at 3. He then asked M.C., ''what, other than pain medication, seems to help with your pain; heat, cold or relaxation?'' *Id.* M.C. replied ''a little cold.'' *Id.* Applicant then repeated that he was going to prescribe Motrin and Roxicodone and told M.C. he wanted to see him back in about one month. *Id.* The visit ended, with M.C. receiving a prescription for 90 Motrin 800mg and 150 Roxicodone 30mg. GX 14; *see also* GX 11, at 3.

On August 11, 2011, M.C. returned to AFM. Upon meeting, Applicant asked M.C. ''[h]ow are you doing?'' to which M.C. replied ''[g]ood.'' GX 16, at 1. Applicant then asked M.C. if he was ''getting pain relief with [his] current medications'' and if he was ''tolerating [his] medications well''; M.C. replied ''yes'' to both questions. *Id.; see also* GX 15. After a silence which lasted approximately 3 minutes, GX 15, Applicant stated, ''Alright Michael . . . I re-ordered your Motrin and Roxicodone for you . . . and see you back in about one (1) month.'' GX 16, at 1.

Following another brief silence, M.C. asked: ''Do you want me to stand up?'' Applicant replied, ''[y]ou're fine. Take some deep breaths.'' *Id.* Applicant then told M.C., ''[s]ee you in about one (1) month,'' and the visit ended. *Id.* at 2. The total length of the visit was approximately 5 minutes, GX 15, and Applicant issued M.C. prescriptions for 150 Roxicodone 30mg and 90 Motrin 800mg. GX 17. A note for the visit lists M.C.'s weight, blood pressure, and pulse (although it is unclear if these were ever taken), and also includes Applicant's notes, which are largely indecipherable, but state that ''pt states good pain relief with current meds'' and ''tolerates meds well.'' GX 5, at 35. *Id.*

On September 8, 2011, M.C. made a third visit to AFM. GX 19; GX 5, at 32. M.C. filled out a Daily Pain Summary Form, on which he stated that he had pain on that day, that it was on average a three out of ten, and that he had ''experienced unrelieved breakthrough pain'' on three occasions on that date. GX 5, at 8.

During this appointment, Applicant asked M.C. if he was ''getting good relief with [his] current medications?'' GX 18; GX 19, at 1. M.C. answered ''[y]es,'' but added: ''I'm having a little trouble sleeping some nights . . . I didn't know if I can get any Xanax . . . Just a couple Xanax . . . I've taken it before and it helped.'' GX 19, at 1. Applicant replied, ''[s]o you're having some insomnia''; M.C. stated, ''[y]eah, not too bad, but sometimes.'' *Id.*

After placing his stethoscope on M.C.'s back and listening to him breathe, Applicant told M.C. that he had ''renewed'' both his Roxicodone and Motrin and added that he wanted to see M.C. ''back in about one (1) month.'' *Id.* The visit then concluded. *Id.* at 2. While the visit lasted approximately nine minutes, the recordings establish that M.C. and Applicant exchanged very little dialog other than that which is quoted above. In fact, after Applicant said to M.C., ''breathe normal'' and ''sounds good'' (apparently while listening with his stethoscope), approximately four and one-half minutes passed without further dialogue until Applicant told M.C. that he had ''renewed [his] Roxicodone.'' *Id., see also* GX 18 (audio recording.) Applicant again issued M.C. prescriptions for 150 Roxicodone 30mg and 90 Motrin 800mg. GX 20.

On October 11, 2011, M.C. made a fourth visit to AFM. GX 5, at 3. After Applicant greeted M.C. and made an unintelligible comment, M.C. stated: ''[y]eah, I asked you for them last time . . . I don't know if you forgot, but, you said you would, but I didn't get the script for them,'' apparently referring to the Xanax he had sought at his previous visit.[6] GX 22, at 1.

The following exchange then ensued:

[4] The form contains sections with such headings as ''Patient Evaluation/Assessment,'' ''Medical Diagnosis,'' ''Objectives of Treatment Used to Determine Treatment Success,'' ''Recommended Non-Medication Treatment Modalities,'' ''Risks and Benefits,'' ''Periodic Review,'' ''Patient Drug Testing Completed'' and ''Compliance With Controlled Substance Laws.''

[5] Applicant also checked ''no,'' indicating that he did not recommend that M.C. consult with a specialist or undergo additional evaluations or tests. Yet he made another indecipherable note in the section for listing additional evaluations and tests.

[6] The patient record includes an undated, unsigned handwritten note stating: ''pt said you were going to write some Xanax but forgot.'' GX 5, at 1.

Applicant: ''I think I said I wanted you to try and go without them.'' [7]

M.C.: ''Oh, OK.''

Applicant: ''I will go ahead and prescribe them for you this time.''

M.C.: ''OK.''

Applicant: ''Did you do ok when you didn't have them?''

M.C.: ''Um, I had taken them before and I did better with them when I was taking them. . . . And also, I work in a warehouse, and I know the holidays are coming up. So, it's a lot of heavy lifting. I didn't know if I could get a couple more of the Oxy's . . . You gave me one hundred and fifty (150) last time . . . I didn't know if you could bump it up to, like, one hundred eighty (180) maybe, if that's possible.''

Applicant: ''I'll see what I can do.''

Id.

Next, Applicant asked M.C. if he was ''doing well,'' with M.C. answering ''yes.'' *Id.* at 2. M.C. then asked if Applicant wanted him ''to stand up.'' *Id.* Applicant said ''you're fine,'' asked M.C. to ''take some deep breaths,'' and said ''sounds good.'' *Id.* Approximately four minutes of silence followed (*see* GX 21), after which Applicant told M.C. that he had ''renewed [his] scripts,'' as well as given him ''Xanax for the sleep'' and needed to see him ''back in about a month.'' GX 22, at 2. The total length of the visit was approximately eight minutes and Applicant issued M.C. prescriptions for 160 Roxicodone 15mg, 150 Roxicodone 30mg, 60 Xanax 2mg, and Motrin. GX 5, at 28.

On July 7, 2011, a second Special Agent (B.O.), made an undercover visit to AFM. GX 24, at 2; GX 26, at 1 (transcript). B.O. provided paperwork and an MRI to the clerk as a walk-in patient, and returned to AFM later in the day for his appointment. GX 26, at 1–3. He provided a urine sample, which tested negative for controlled substances. GX 24, at 2. He also completed a Pain Survey on which he reported that in the last 24 hours, his pain (on a zero to ten scale) was a five (5) at its worst, a two (2) at its least, and averaged a three (3). GX 6, at 35.

The form also asked the patient to rate the extent to which the pain interfered with various things, such as general activities, work, and sleep, with zero being no interference and ten being complete interference. B.O. circled three (3) for both his general activity and work, and five (5) for sleep. *Id.* at 36. He also wrote that he had taken non-prescription Motrin which had no effect on his pain. *Id.* at 37. Another form included in the patient file, signed by B.O. on July 7, 2011, included an oath that he ''had not been prescribed narcotic pain medication within the last 30 days, or from another physician, since my last visit to this clinic.'' *Id.* at 15.

Thereafter, B.O. was seen by Applicant, but the recording device malfunctioned and depicts only about two minutes of their interaction, during which Applicant was sitting at his desk and asked B.O. what type of work he did and how many hours a week he worked before ending. GX 26, at 5–6; GX 25. However, the Special Agent submitted a sworn declaration stating that he told Applicant he was experiencing back problems due to work, and that he had taken oxycodone from a friend which relieved the pain. GX 24, at 2. The Special Agent further stated that following this, Applicant ''placed a stethoscope on my back and printed prescriptions for 180 tablets of oxycodone 30mg and 90 tablets of Motrin 800mg.'' *Id.; see also* GX 27.

B.O.'s patient file includes an intake form which purports to document his chief complaint, his symptoms, and exam findings. GX 6, at 27. Again, most of the handwritten notes for the exam findings are illegible. The Pain Management Treatment Plan form notes a diagnosis of ''chronic lbp''; it also includes the words ''work out, stretching, chiropractic'' in the notes section under objectives of treatment. *Id.* at 6–7. In addition, the ''yes'' box is checked indicating that a pain survey was done, that the risks and benefits were discussed, that a follow-up appointment was scheduled and that a drug test was done; the ''no'' box is checked indicating that specialist consultations or additional tests were not being scheduled. *Id.* at 6–9. However, the rest of the form is blank. *Id.*

On August 4, 2011, B.O. returned to AFM. GX 29; *see also* GX 24, at 2. During the visit he was required to submit a urine sample, which registered negative for controlled substances. GX 29, at 2. He was then informed by the office clerk that he was dismissed from the practice. *Id.* at 3; *see also* GX 6, at 1–2.

On March 22, 2012, a local sheriff's deputy, using an alias with the initials T.B., went to AFM. GX 30, at 1. T.B. was initially told by the office staff that his MRI was too old because it was over two years old; he then obtained a new MRI for his neck and returned to AFM that same day. *Id.; see also* GX 31 (audiovisual recording).

T.B. completed two forms regarding his pain, a Daily Pain Summary and a Pain Management Questionnaire. On the former, he placed an x on his upper back to indicate the area where he had pain. GX 7, at 2. On the latter, he noted that in the last twenty-four hours, his pain was a four (4) at its worst, a three (3) at its least, and on average a three (3). GX 7, at 20. He also wrote that the onset of his pain was in 2005, and that ''oxycodone—helps.'' *Id.* at 22.

While the audio-video recording of T.B.'s visit depicts his interactions with the office staff regarding his MRI and his urine sample (which was negative for controlled substances), the recording in the evidentiary record ends before T.B. actually met with Applicant.[8] *See generally* GX 31. However, the undercover officer submitted a declaration summarizing his visit with Applicant. Therein, the Officer stated that Applicant said to him, '' 'I understand you are having some chronic low back pain,' despite the MRI I provided of my neck.'' GX 30, at 2. The Officer further stated that Applicant then asked if he ''had any success with pain relief in the past''; the Officer ''told [Applicant] that [he had] taken oxycodone, and that worked.'' *Id.* According to the Officer, Applicant ''then placed a stethoscope on [his] chest and back,'' after which Applicant wrote him prescriptions for 120 Roxicodone 15mg, 180 Roxicodone 30mg, as well as Motrin. *Id., see also* GX 33.

T.B.'s patient file includes both an intake form and a pain management treatment plan. While the first form includes entries for T.B.'s chief complaint and ''examination and symptom findings,'' here again, most of the entries are illegible. GX 7, at 15. As for the second form, it contains a ''yes'' checkmark next to the entries indicating that a pain survey was taken, that non-medication treatment of heat/cold was recommended, that risks and benefits were discussed, that a patient drug test was completed, and a ''no'' checkmark indicating that neither specialist consultations nor additional evaluations or tests were recommended; there are also two two-word long handwritten notes under the medical diagnosis and dates of appointment which are illegible. *Id.* at 3–6. However, nearly every other line and entry is blank. *Id.*

The record also includes the medical file of D.V., a thirty-four year old male, who was under Applicant's care for approximately thirteen months. On January 1, 2012, D.V., who had received several controlled substance prescriptions from Applicant only days

[7] There is, however, no evidence that Applicant ever made this Statement to M.C. during his September 8, 2011 visit. *See* GX 19, at 1–2; *see also* GX 18.

[8] The record also contains an exhibit which purports to be a transcript of the meeting between TB and Applicant. The record, however, contains no statement establishing that the transcript is reliable and accurate.

before, died of ''acute combined drug toxicity.'' *See generally* GX 37 (Patient File), GX 38 (Medical Examiner's Cause of Death Report), GX 39 (Autopsy).

D.V.'s patient file included medical records from his initial visit in June 2010 to AFM (then called the ''Center for Wellness and Weight Loss'') through his final visit on December 27, 2012. GX 37. D.V. was initially seen by a different physician who recorded ''low back pain and left lower extremity radiculopathy'' as D.V.'s chief complaint. GX 37, at 113. His patient file included two MRI reports from March 2006, and a prescription record from Holiday CVS dated January 2010 through June 14, 2010. *Id.* at 115–121.

D.V. first saw Applicant on November 9, 2010. *Id.* at 102. According to the records for this date, Applicant issued D.V. prescriptions for 210 Roxicodone 30mg, 90 Roxicodone 15mg, and 30 Xanax 2mg.[9] *Id.* at 103. While most of the notes on the intake form for the visit are illegible, the notes state that D.V.'s ''CC'' (chief complaint) was ''chronic LBP'' (chronic lower back pain). Under ''Examination and Symptom Findings,'' the notes list D.V.'s weight as ''265 lbs'' and blood pressure as ''162/90.'' The findings further state: ''he also notes good pain relief with current meds . . . overall feels well.'' *Id.* at 102.

On December 8, 2010, D.V. again saw Applicant as a follow-up for ''chronic LBP.'' *Id.* at 99. The Intake Form notes which are legible read: ''overall feels well . . . tolerating pain meds'' and ''Back full ROM [symbol] tenderness. . . .'' *Id.* Applicant wrote that the treatment plan was to ''continue meds,'' which were listed as 210 Roxicodone 30mg, 80 Roxicodone 15mg and 80 Xanax 2mg. GX 37, at 100. However, the file does not contain copies of the prescriptions or a discharge summary for this visit. *Id.*

On December 28, 2010, D.V. again saw Applicant, who documented a diagnosis of chronic LBP and anxiety. GX 37, at 98. The physician's handwritten notes state: ''Overall feels well . . . good pain relief with current meds . . . does report running out of 15mg Roxicodone.'' *Id.* The notes also list D.V.'s weight at ''278 lbs'' and blood pressure as ''180/116.'' *Id.* The Discharge Summary lists the prescriptions issued that date as 210 Roxicodone 30mg, 120 Roxicodone 15mg, 90 Xanax 2mg, and Motrin. *Id.* at 97.

D.V. returned to AFM on a monthly basis for his ''chronic LBP'' throughout 2011. *Id.* at 49–96. Throughout this period, Applicant repeatedly issued D.V. prescriptions on a monthly basis providing 210 Roxicodone 30mg, 90 or 120 Roxicodone 15mg, and 60 or 90 Xanax 2mg. Also, on multiple dates, Applicant provided additional prescriptions or early refills.

For example, on August 30, 2011, Applicant issued D.V. prescriptions for 210 Roxicodone 30mg, 120 Roxicodone 15mg, and 60 Xanax 2mg. *Id.* at 69. Yet on September 6, Applicant wrote D.V. a script for an additional 180 Roxicodone 30mg, followed by a script on September 13 for 180 Percocet 10/325, a schedule II drug combining oxycodone and acetaminophen. *Id.* at 67–68. Yet only three days later, Applicant issued D.V. a further script for 180 Roxicodone 30mg. *Id.* at 66.

Indeed, during the 63-day period between D.V.'s August 30, 2011 visit and his next appointment on November 1, 2011, the record shows that Applicant issued D.V. prescriptions totaling 738 tablets of Roxicodone 30mg, 390 tablets of Roxicodone 15mg, 300 Percocet 10/325 mg, and 180 Xanax 2mg. *Id.* at 62–69. Per Applicant's dosing instruction of one Roxicodone 30mg tablet every 4–6 hours, even if D.V. took one tablet every 4 hours, he still would have used only 378 tablets in that 63 day period, leaving 360 tablets unaccounted for. As for the Xanax, based on the dosing instruction of one tablet every twelve hours, D.V. would have had 60 tablets remaining. Yet, at D.V.'s November 1st visit, Applicant provided him with prescriptions for 180 Roxicodone 30mg, 120 Roxicodone 15mg, 60 Percocet 10/325, and 60 Xanax. *Id.* at 59.

Regarding Applicant's prescribing to D.V. during this period, the Government's Expert found that ''[t]here is no documentation in the history as to why the additional prescriptions had been provided to the patient between that visit of 11/01/2011 and the previous visit of 8/30/2011.'' GX 35, at 12. There is, however, a Sheriff's Office Event Report which establishes that on September 30th, D.V. was a passenger in a car which was followed by the Sheriff's Office as it left Applicant's clinic and was stopped after its driver ran a stop sign. GX 37, at 9. During the traffic stop, the Officers learned that D.V. was on probation; D.V. consented to a search of his person, during which the Officers found a clear orange pill bottle which contained twenty-seven tablets of oxycodone 30mg; the vial's label was partially torn off and the remaining information ''was unreadable.'' *Id.* The Officers also seized D.V.'s prescriptions for oxycodone 15mg, alprazolam 2mg, and Motrin. *Id.* D.V. ''was released and given a case number for the pills and prescriptions.'' *Id.*

There is also a one-page document in the file, which is titled: ''[D.V.] Medication Report.'' *Id.* at 6. The document lists the dates of the various oxycodone prescriptions Applicant wrote between August 2 and October 6 and contains various notations as to why several of the prescriptions were issued. *Id.* For example, the document states that D.V. could not fill the August 30 prescription for 210 oxycodone 30mg and that he turned in the prescription, thus suggesting the reason why Applicant issued him a prescription for 180 oxycodone 30mg on September 6. *Id.* Yet the document also includes a notation that the reason Applicant issued D.V. a prescription for 120 oxycodone 15mg on September 29 was because the police had taken D.V.'s prescription (dated September 27) for 138 oxycodone 30mg. *Id.* The reliable evidence shows, however, that the police did not take this prescription but rather the September 29 prescription for 120 oxycodone 15mg. *Id.* Moreover, the handwriting is markedly more legible than that on the various intake forms, thus suggesting that Applicant did not create the document.

On November 29, D.V. again saw Applicant, who noted on the Intake Form: ''pt reports good pain relief with current meds . . . tolerates meds well overall feels well . . . Back full ROM.'' *Id.* at 57. According to a Discharge Summary, which was printed at 12:16 p.m., Applicant prescribed 180 Roxicodone 30mg, 120 Roxicodone 15mg, 60 Xanax 2mg, and Motrin.[10] GX 37, at 56.

On December 9, 2011, Applicant issued D.V. a prescription for 100 tablets of Roxicodone 15mg. *Id.* at 55. There are, however, no notes in D.V.'s file bearing this date.[11]

On December 27, D.V. made his next and last visit. On the Intake Form, Applicant wrote: ''pt states good pain relief with current meds . . . tolerates meds well . . . overall feels well.'' *Id.* at 51. An unsigned, undated, handwritten note in the file states ''Due for urine.'' *Id.* at 50. Applicant issued D.V. prescriptions for 180 Roxicodone 30mg, 120 Roxicodone 15mg, 40

[9] The record does not include copies of DV's actual prescriptions, but does contain Discharge Summaries which correspond to office visit records and list medications prescribed by Applicant.

[10] The file contain a second discharge summary for the same date which was printed at 3:08:57 p.m., and which documents that Applicant issued DV prescriptions for 180 Roxicodone 30mg, 120 Percocet 10/325mg, 60 Xanax 2mg, and Motrin. It is unclear, however, whether these were additional prescriptions beyond those listed in the first discharge summary. GX 37, at 54.

[11] An undated, unsigned handwritten note in the file states ''trade in 50 30's and get 100 15s.'' *Id.* at 53.

Percocet 10/325mg, 60 Xanax 2mg, and Motrin. *Id.* at 49.

As found above, on January 1, 2012, D.V. ''died as a result of acute combined drug toxicity.'' GX 39, at 1. The medical examiner's toxicology report found that D.V.'s blood was positive for alprazolam, cocaine, diazepam, methadone, and oxycodone. *Id.* at 5. The Medical Examiner's Cause of Death Report states that D.V.'s family reported that he was ''currently taking Xanax and Oxycodone . . . and had been addicted to pain medications for a number of years for treatment of back pain and a shoulder injury, but all incidents were remote and full recovery was reached.'' GX 38, at 1. On the date of his death, D.V. ''was drinking alcohol throughout the day while continuing to take his daily Xanax and Oxycodone regimen [that] he was prescribed.'' *Id.* at 2.

The Expert's Report

The medical files of the three undercover officers and patient D.V. were reviewed by the Government's Expert, Mark Rubenstein, M.D. Dr. Rubenstein, who is licensed in Florida, Maryland, and Virginia, is a diplomate of the American Board of Physical Medicine and Rehabilitation with a subspecialty certificate in Pain Medicine; a Fellow of the American Academy of Physical Medicine and Rehabilitation; a diplomate of the American Academy of Pain Management; and has held positions with several pain and rehabilitation clinics. GX 34. He has also held various appointments, including that of clinical professor at several medical schools, and has made numerous presentations on the treatment of injuries and chronic pain. *Id.*

Using the Florida Standards for the Use of Controlled Substances for [the] Treatment of Pain, *see* Fla. Admin. Code r. 64B15–14.005, Dr. Rubenstein reviewed the patient files of the undercover officers and D.V. and evaluated Applicant's controlled substance prescribing practices. He then provided a report with his conclusions. *See* GX 35, at 1.

Regarding T.B., Dr. Rubenstein found that the patient file ''showed no objective abnormality for the chief complaint of low back pain.'' *Id.* He noted that ''the only objective abnormality contained within the file was a cervical MRI scan, but the patient's complaints as per the physician were chronic low back pain.'' *Id.* Yet there was ''no documentation of any musculoskeletal or neurologic examination germane to the neck or back region.'' *Id.* at 4.

Dr. Rubenstein further found that Applicant failed to do a ''a complete history and physical examination'' and ''therefore, there was no justification for the use of high doses of opioids, specifically high quantities of Roxicodone 15 and 30mg, with no other treatment alternatives afforded to the patient other than Motrin 800 mg.'' *Id.* Dr. Rubenstein also observed that:

> [T.B.]'s initial drug screen was negative, indicating he was either opioid naïve or clearly not using any opioid medications demonstrating any tolerance at the initial visit, therefore it would be considered inappropriate to initiate a dose of Roxicodone 30 mg every four to six hours for a patient who is not using same . . . this dose would be aggressive, excessive and place the patient at risk for drug toxicity or overdose including respiratory depression. *Id.*

Dr. Rubenstein thus concluded that Applicant's treatment ''represents a deviation from the standard of care in pain medicine.'' *Id.* He also observed that the physician's handwriting and medical records were not legible, which would ''be a deviation from the Florida statutes for the standards of adequacy of medical records, as well as a deviation from the standards for the use of controlled substances for the treatment of pain.'' *Id.*

With regard to M.C., Dr. Rubenstein found that the only objective pathology was an MRI of the lumbar spine showing only some disc bulging. *Id.* at 6. Yet, ''[t]here was no documented detailed neurologic or musculoskeletal exam, and the only follow-up visits were [sic] a neurologic exam is even referenced indicated that the neurologic exam was ''intact.'' '' *Id.* According Dr. Rubenstein, ''[t]he medical records are lacking legibility, and clearly a detailed history and physical was not performed or documented by the physician.'' *Id.*

Dr. Rubenstein observed Applicant ''offered the patient only medications with no other treatment alternatives for a complaint of chronic low back pain.'' *Id.* at 6. He further observed that while M.C.'s ''initial urine drug screen was completely negative'' and ''there was no documented history of using medications from other providers and no records of same,'' Applicant prescribed M.C. ''Roxicodone 30mg to take every four to six hours.'' *Id.*

Dr. Rubenstein explained that ''[t]his would be an inappropriate dose for an opioid naïve patient'' and ''would be considered excessive for a young male who had no significant pathology documented from an objective perspective.'' *Id.* He then noted that ''[t]here were no follow-up [sic] urine screens to ensure compliance with the medication regimen.'' *Id.*

Dr. Rubenstein further observed that there were no treatment alternatives afforded to the patient for his back pain, such as physical therapy, injection therapy, activity modification and non-opioid alternatives other than Motrin. *Id.* He also noted that on October 11, 2011, Applicant added Roxicodone 15mg to M.C.'s medications, and that M.C. ''may have been taking up to six Roxicodone 30mg tablets and six 15mg tablets for a total of 270mg of oxycodone daily if the full dose was utilized.'' *Id.* Yet there was no documentation ''as to why the Roxicodone 15mg was being added, and especially why an additional 160 of these tablets were recommended.'' *Id.* at 5.

As for the Xanax 2mg prescription which Applicant provided on M.C.'s last visit, Dr. Rubenstein observed that this would be excessive for an initial starting dose. *Id.* at 6. He further noted that ''[t]here was no mental health consultation or other documented abnormal mental status exam to have even warranted such a dose.'' *Id.*

Next, Dr. Rubenstein noted that Applicant violated the standards for the adequacy of medical records by not keeping legible medical records. *Id.* Finally, he concluded that Applicant violated the Florida standards for the use of controlled substances in treating pain, because he did not perform a detailed history and physical, use appropriate consultations for treatment objectives, keep accurate and complete medical records, or individualize treatment. *Id.* As such, this represented a deviation from the standard of care in pain medicine. *Id.*

As for B.O., Dr. Rubinstein found that he presented with low level back pain and an MRI showing only some disc bulging and facet hypertrophy. *Id.* at 8. Yet Applicant did not perform a ''detailed physical examination'' to include a musculoskeletal or neurologic exam. *Id.*

Dr. Rubinstein also found that Applicant did not take a detailed history of B.O.'s pain. *Id.* While Dr. Rubenstein acknowledged that the file included a completed pain questionnaire, ''it was not even specific to low back pain.'' *Id.* Moreover, while the MRI listed a referring physician of Robert Green, there were no records in the chart from prior physicians and there was ''no information in the chart'' that Applicant ''attempt[ed] to discern what had been done by [Dr. Green] or any other providers in the past.'' *Id.* According to Dr. Rubenstein, ''[t]here was not nearly enough documentation on physical exam to support any diagnosis other

than 'chronic low back pain,' which is a generic diagnosis and not specific for a neurologic or musculoskeletal abnormality.'' *Id.* There was also no documentation that Applicant had considered alternative treatments ''such as physical therapy, referral to a spine specialist, non-opioid alternatives such as medications or other agents, injection therapy, [or] exercise specifically for lumbar stabilization.'' *Id.*

Dr. Rubenstein further noted that B.O.'s initial urine drug screen was negative and thus ''there was clearly no basis to initiate a dose of Roxicodone 30mg every four to six hours.'' *Id.* Dr. Rubenstein then observed that ''[t]his dose would be considered excessive, aggressive, and placed the patient at risk for drug overdose or drug toxicity.'' *Id.* Based on his conclusion that Applicant had failed to perform an adequate history and physical examination, Dr. Rubenstein concluded that Applicant breached the standard of care for pain medicine and violated Florida rule 64B8–9.013 when he prescribed Roxicodone 30mg at B.O.'s first visit. *Id.* at 9.

Dr. Rubenstein also noted that Applicant's physical exam notes were illegible and lacked ''sufficient detail to document why the course of treatment was undertaken.'' *Id.* Thus, he concluded that Applicant violated Florida's regulation governing the ''Standards of Adequacy of Medical Records.'' *Id.*

Dr. Rubenstein reviewed D.V.'s patient file and the medical examiner's report. He described D.V.'s file as ''[d]isconcerting.'' *Id.* at 15. He found that the only imaging study was a 2006 MRI and there was ''no attempt to obtain previous medical records for his pain management.'' *Id.* at 16. He then noted that

> The young male with a history of chronic low back pain and no focal neurologic abnormality [was] given high doses of Roxicodone, oxycodone, and alprazolam. There was never any documented mental status examination, referral for treatment of anxiety, specialist referral for evaluation of back pain, etc. There were no consults with other specialists, no consideration of treating drug dependence or addiction, and no treatment alternatives [were] afforded to the patient. There was no documentation as to any history of shoulder pain or evaluation of same despite the . . . medical examiner's report indicating presence of same that initiated [D.V.'s] drug dependence and drug addiction. There was no attempt to recognize [D.V.'s] drug addiction . . . and no serial drug monitoring to ensure the prescriptions were being utilized appropriately. No attempts were made . . . to reliably reduce the risk of drug diversion, such as urine drug screens to ensure compliance. . . . Had drug screens been performed . . . then a proper treatment protocol may have been afforded to the individual.

Id. at 15–16.

Dr. Rubinstein further observed that while Applicant documented on the ''Pain Management Treatment Plan'' form that drug testing had been completed at several of D.V.'s visits, there were no drug test results in the file. *Id.* at 13–14. Dr. Rubinstein thus explained that Applicant's documenting that monitoring had been performed when there were no test results in D.V.'s file ''represents improprieties in the medical records themselves.'' *Id.* at 16.

Dr. Rubinstein also observed that D.V.'s weight rendered him obese and yet Applicant never addressed this issue or his intermittent hypertension with him. *Id.* Moreover, D.V. ''was clearly either drug dependent, drug addicted, or drug diverting and no attempts were made to address those issues'' with him. *Id.*

Dr. Rubenstein thus concluded that Applicant did not meet ''the standard of care for pain medicine in prescribing such high doses of medications with the frequency performed to this individual.'' *Id.* He further found that Applicant deviated ''from the Standards for the Use of Controlled Substances for the Treatment of Pain by failing to perform periodic reviews, ensure compliance, obtain consultations for the evaluation of ongoing back pain, and by fail[ing] to provide any treatment alternatives to opioid medications and high-dose benzodiazepines.'' *Id.*

Dr. Rubinstein thus found that Applicant deviated from the standard of care in pain medicine with respect to each of the undercover officers and D.V. He further concluded that the prescriptions Applicant issued ''for these individuals were issued for other than a legitimate medical purpose and would be considered outside the usual course of professional practice.'' GX 35, at 1.

Other Evidence

In preparation for the previous Order to Show Cause proceeding, Investigators reviewed prescription data from the Florida Prescription Monitoring Program (PDMP), as well as pharmacy records from various states, including Florida. GX 8, at 3–4 (Declaration of Diversion Investigator). They also obtained from several pharmacies some of the prescriptions which Applicant had authorized between July 2010 and June 3, 2011. *Id.* at 3. As found above, when Applicant applied for a new registration in October 2009, he sought authority to dispense only schedule II narcotics. Accordingly, the Agency issued him a registration which authorized him to dispense schedule II narcotics but no other controlled substances. Thus, Applicant did not have authority to dispense non-narcotic schedule II controlled substances or any controlled substances in schedules III, IV, and V.

According to the declaration of an Agency Investigator, various records show that during this period, Applicant issued approximately 1,116 prescriptions, which authorized the dispensing of approximately 85,432 dosage units of controlled substances in drug schedules 2N (non-narcotic), 3, 4, and 5. *Id.* at 3–4.

Included in the evidentiary record are fifteen prescriptions for Xanax, a schedule IV controlled substance, five prescriptions for Adderall, a schedule 2N controlled substance, and two prescriptions for Valium, a schedule IV controlled substance, which Applicant issued between November 30, 2010 and May 24, 2011. GX 9.

The record also includes a computer-generated sixteen (16) page document, which lists various prescriptions for drugs such as alprazolam, diazepam, phentermine, zolpidem, and amphetamine salts issued by Applicant between July 2, 2010 and June 3, 2011, along with the names of the patients (and their city of residence) and the dispensing pharmacy (and city where located). *See* GX 40. While in the record's Table of Contents, the Government refers to this document as ''Chart and PDMP Report for Respondent's Prescribing Outside Registration (19 pages),'' GX Table of Contents, the document bears no label identifying it as such. Moreover, while an Investigator stated that she had had reviewed Florida PDMP records, her affidavit does not identify this document as being part of the PDMP records she reviewed. *See generally* GX 8.

Discussion

Section 303(f) of the Controlled Substances Act provides that an application for a practitioner's registration may be denied upon a determination ''that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination, the CSA requires the consideration of the following factors:

> (1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
>
> (2) The applicant's experience in dispensing . . . controlled substances.
>
> (3) The applicant's conviction record under Federal or State laws relating to the

manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

''These factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether . . . an application for registration [should be] denied.'' *Id.* Moreover, it is well established that I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *see also Kevin Dennis, M.D.,* 78 FR 52787, 52974 (2013); *MacKay* v. *DEA,* 664 F.3d 808, 816 (10th Cir. 2011).

Furthermore, under Section 304(a)(1), a registration may be revoked or suspended ''upon a finding that the registrant . . . has materially falsified any application filed pursuant to or required by this subchapter.'' 21 U.S.C. 824(a)(1). DEA has long held that the various grounds for revocation or suspension of an existing registration that Congress enumerated in section 304(a), 21 U.S.C. 824(a), are also properly considered in deciding whether to grant or deny an application under section 303. *See Anthony D. Funches,* 64 FR 14267, 14268 (1999); *Alan R. Schankman,* 63 FR 45260 (1998); *Kuen H. Chen,* 58 FR 65401, 65402 (1993). Thus, the allegation that Respondent materially falsified his application is properly considered in this proceeding. *See Samuel S. Jackson,* 72 FR 23848, 23852 (2007). The Government bears the burden of proof in showing that the issuance of a registration is inconsistent with the public interest. 21 CFR 1301.44(d).

The Material Falsification Allegation

As found above, on October 1, 2008, the Florida Department of Health entered an emergency suspension of Applicant's Florida medical license, on the basis of his history of alcohol dependency and his failure to comply with the DOH's orders which required the monitoring of his medical practice. GX 10, at 10. In March 2009, the DOH re-instated his medical license. Applicant, however, allowed his DEA registration to expire on May 31, 2009.

On October 5, 2009, Applicant applied for a new DEA registration and provided a ''no'' answer to the third liability question, which asked whether he had previously had a state professional license revoked or suspended. GX 4, at 10. Applicant's answer was clearly false, and knowingly so, as the DOH had suspended his medical license on October 1, 2008 and Applicant's license was not reinstated until March 26, 2009. Moreover, Applicant also provided a ''no'' answer to question three on the applications he filed on May 22, 2012 and January 4, 2013. Thus, Applicant has submitted three applications in which he provided a false answer to question three.

Congress did not, however, grant the Agency authority to revoke an existing registration or deny an application based on any falsification, but rather, only those which are material. *See* 21 U.S.C. 824(a)(1). As the Supreme Court has explained, ''[t]he most common formulation'' of the concept of materiality ''is that a concealment or misrepresentation is material if it 'has a natural tendency to influence, or was capable of influencing, the decision of' the decisionmaking body to which it was addressed.'' *Kungys* v. *United States,* 485 U.S. 759, 770 (1988) (quoting *Weinstock* v. *United States,* 231 F.2d 699, 701 (D.C. Cir. 1956)) (other citation omitted); *see also United States* v. *Wells,* 519 U.S. 482, 489 (1997) (quoting *Kungys,* 485 U.S. at 770). The Supreme Court has further explained that ''[i]t has never been the test of materiality that the misrepresentation or concealment would more likely than not have produced an erroneous decision, *or even that it would more likely than not have triggered an investigation.*'' *Kungys,* 485 U.S. at 771 (emphasis added). Rather, the test is ''whether the misrepresentation or concealment was predictably capable of affecting, *i.e.,* had a natural tendency to affect, the official decision.'' *Id.* '' '[T]he ultimate finding of materiality turns on an interpretation of substantive law,' '' *id.* at 772 (int. quotations and other citation omitted), and must be met ''by evidence that is clear, unequivocal, and convincing.'' [12] *Id.*

As the above makes clear, the relevant decision for assessing whether a false statement is material is the Agency's decision as to whether an applicant is entitled to be registered (or in the case of a current registrant, remain registered). Thus, because possessing authority to dispense controlled substances under the laws of the State in which a physician practices medicine is a requirement for holding a DEA registration, *see* 21 U.S.C. 802(21) & 823(f), a false answer to question three is material where an applicant no longer holds authority to practice medicine (regardless of the reason for the State's action) or authority to dispense controlled substances, as well as where the State has placed restrictions on a practitioner's authority to prescribe controlled substances. So too, because in determining whether an application should be granted, Congress directed the Agency to consider the five public interest factors, even where an applicant currently holds unrestricted state authority to dispense controlled substances, the failure to disclose state action against his medical license may be material if the action was based on conduct (or on the status arising from such conduct, *i.e.,* a conviction for a controlled substance offense or mandatory exclusion from federal health care programs) which is actionable under either the public interest factors or the grounds for denial, suspension, and revocation set forth in section 824. *See Scott C. Bickman,* 76 FR 17694, 17701 (2011) (holding that failure to disclose state probation was not material where probation was based on an act of medical malpractice and did not involve controlled substances).

Here, citing *Bickman,* the Government contends that Applicant's falsification is material because the Florida DOH concluded that as a result of his dependency on alcohol, ''his 'continued practice as an osteopathic physician constitute[d] an immediate serious danger to the health, safety, and welfare of the public' '' and that '' '[n]othing short of suspending [his] license will adequately protect the public.' '' Req. for Final Agency Action, at 14. Had Applicant's state license been suspended at the time he filed any of his DEA applications, his answer to question three would have been materially false because he would have lacked authority to dispense controlled substances and would not have been entitled to be registered.[13] But it wasn't.

[12] While *Kungys* involved a denaturalization proceeding, in other civil proceedings, courts have required that a party establish that a falsification is material by ''clear, unequivocal, and convincing evidence'' and not simply by a ''preponderance of the evidence.'' *Driscoll* v. *Cebalo,* 731 F.2d 878, 884 (Fed. Cir. 1984). In any event, the Government has produced no evidence as to why the statement is material.

[13] Citing *Bickman,* the Government argues that ''[a] falsification is material if the state medical board 'concluded that Respondent's conduct posed such a risk to patients as to warrant the suspension or revocation of his medical license (and authority to prescribe controlled substances under [s]tate law).'' Gov. Req. for Final Agency Action, at 14. The quoted language, however, does not support the Government's contention as it served only to distinguish Bickman's circumstance of having been placed on probation by his state board from that which would have existed had his state license been suspended or revoked at the time he submitted his application. As explained above, because

Moreover, the Government makes no argument that had Applicant truthfully disclosed the State's suspension, it would have uncovered information that he had committed actionable misconduct under the public interest standard or the other grounds provided in 21 U.S.C. 824(a). Indeed, the State's suspension order made no allegation that Applicant engaged in misconduct actionable under the public interest standard (whether resulting in a criminal conviction or not) or that he was convicted of an offense subjecting him to mandatory exclusion from federal health care programs. *See id.* Rather, the DOH's Order was based on its conclusion that Applicant is an alcoholic. Notably, the DOH made no allegation that Applicant was also a drug abuser and the Government cites no decision in which this Agency has denied the application of a physician, who was then duly authorized by the State in which he/she practiced to dispense controlled substances, on the sole ground that the physician was an alcoholic. Accordingly, I reject the allegation. *Hoi Y Kam,* 78 FR 62694, at 62696 (2013); *see also* Scott C. Bickman, 76 FR 17694, 17701 (2011).

The Public Interest Allegations

The Government alleges that granting Applicant's registration would be inconsistent with the public interest based on his conduct which is relevant in assessing his experience as a dispenser of controlled substances (Factor Two) and his compliance with applicable laws related to controlled substances (Factor Four).[14] More specifically, the Government contends that Applicant violated the CSA in two respects. First, he issued prescriptions to three undercover officers and D.V. which lacked a legitimate medical purpose in violation of the CSA's prescription regulation. Second, he issued controlled substances prescriptions for drugs he was not authorized to prescribe under his registration. I agree.

Factors Two and Four

To effectuate the dual goals of conquering drug abuse and controlling both the legitimate and illegitimate traffic in controlled substances, ''Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Gonzales* v. *Raich,* 545 U.S. 1, 13 (2005). Consistent with the maintenance of the closed regulatory system, a controlled substance may only be dispensed upon a lawful prescription issued by a practitioner. *Carlos Gonzalez, M.D.,* 76 FR 63118, 63141 (2011).

Fundamental to the CSA's scheme is the Agency's longstanding regulation, which provides that ''[a] prescription for a controlled substance [is not] effective [unless it is] issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [21 U.S.C. 829] and . . . the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.'' *Id.*

As the Supreme Court has explained, ''the prescription requirement . . . ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (*citing United States* v. *Moore,* 423 U.S. 122, 135, 143 (1975)); *United States* v. *Alerre,* 430 F.3d 681, 691 (4th Cir. 2005), *cert. denied,* 574 U.S. 1113 (2006) (stating that the prescription requirement likewise stands as a proscription against doctors acting not ''as a healer[,] but as a seller of wares'').

Under the CSA, it is fundamental that a practitioner must establish and maintain a legitimate doctor-patient relationship in order to act ''in the usual course of . . . professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' *Ralph J. Chambers,* 79 FR 4962 at 4970 (2014) (citing *Paul H. Volkman,* 73 FR 30629, 30642 (2008), *pet. for rev. denied Volkman* v. *DEA,* 567 F.3d 215, 223–24 (6th Cir. 2009)); *see also Moore,* 423 U.S. at 142–43 (noting that evidence established that the physician exceeded the bounds of professional practice, when ''he gave inadequate physical examinations or none at all,'' ''ignored the results of the tests he did make,'' and ''took no precautions against . . . misuse and diversion''). The CSA, however, generally looks to state law to determine whether a doctor and patient have established a legitimate doctor-patient relationship. *Volkman,* 73 FR 30642.

Pursuant to Florida Stat. § 456.44(3)(a), a ''complete medical history and a physical examination must be conducted before beginning any treatment and must be documented in the medical record.'' Moreover, ''the medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and a review of previous medical records, previous diagnostic studies, and history of alcohol and substance abuse.'' *Id.* This section also requires a physician to develop a written plan for assessing ''each patient's risk for of aberrant drug-related behavior, and monitor that risk on an ongoing basis in accordance with the plan.'' *Id.; see also* Fla. Admin. Code r. 64B15–14.005(3)(a).

The Government also cites to the Florida Standards for the Use of Controlled Substances for Treatment of Pain. One of the Standards states that ''osteopathic physicians should be diligent in preventing the diversion of drugs for illegitimate purposes,'' and that ''all such prescribing must be based on clear documentation of unrelieved pain and in compliance with applicable state or federal law.'' Fla. Admin. Code r. 64B15–14.005(1)(d) & (e).

possessing state authority is a requirement for obtaining a DEA registration, failing to disclose a continuing state suspension (or a revocation order which remains in effect) is always material. *See* 21 U.S.C. 802(21) & 823(f)). By contrast, whether the failure to disclose a suspension which has since terminated is material depends upon the basis of the State's action.

[14] As for factor one—the recommendation of the state licensing board—it is undisputed that Applicant holds a current license as an osteopathic physician in the State of Florida and possesses state authority to dispense controlled substances. While Respondent therefore meets an essential prerequisite for obtaining a registration under the CSA, 21 U.S.C. 823(f), DEA has held repeatedly that a practitioner's possession of State authority is not dispositive of the public interest determination. DEA maintains a separate oversight responsibility with respect to the handling of controlled substances and has a statutory obligation to make its independent determination as to whether the granting of such privileges would be in the public interest. *Mortimer Levin,* 57 FR 8680, 8681 (1992). Thus, neither a State's failure to take action against a registrant's medical license, nor a State's restoration of a practitioner's prescribing authority, is dispositive in determining whether or not an application should be granted. *See Jayam Krishna-Iyer,* 74 FR 459, 461 (2009); *Paul Weir Battershell,* 76 FR 44359, 44366 (2011) (citing *Edmund Chein,* 72 FR 6580, 6590 (2007), *pet. for rev. denied Chein* v. *DEA,* 533 F.3d 828 (D.C. Cir. 2008)).

As for factor three, there is no evidence that Respondent has been convicted of an offense ''relating to the manufacture, distribution or dispensing of controlled substances.'' 21 U.S.C. 823(f)(3). However, there are a number of reasons why even a person who has engaged in misconduct may never have been convicted of an offense under this factor, let alone prosecuted for one. *Dewey C. MacKay,* 75 FR 49956, 49973 (2010), *pet. for rev. denied MacKay* v. *DEA,* 664 F.3d 808 (10th Cir. 2011). The Agency has therefore held that ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and is therefore not dispositive. *Id.*

As found above, upon reviewing the patient files of the undercover officers as well as D.V., the Government's Expert found that Applicant issued controlled substances for other than a legitimate medical purpose and outside the usual course of professional practice. As support for his conclusion, the Expert observed that Applicant failed to perform detailed histories and adequate physical examinations, failed to develop any treatment plan other than to prescribe controlled substances, prescribed large and excessive doses of controlled substances, failed to properly monitor patients, and failed to keep legible and complete medical records. I agree with the Expert's analysis and conclude that Applicant knowingly diverted controlled substances including oxycodone (schedule II) and alprazolam (schedule IV) to the undercover officers and D.V. and thus violated federal law. 21 U.S.C. 841(a)(1); 21 CFR 1306.04(a). I further find that Applicant's misconduct was egregious. This finding provides reason alone to deny Applicant's application.

However, the record also supports the conclusion that Applicant exceeded the authority of his registration by prescribing controlled substances in schedules which were outside the scope of his registration. Pursuant to 21 U.S.C. 822(b), ''[p]ersons registered by the Attorney General . . . to . . . dispense controlled substances . . . are authorized to possess . . . or dispense such substances . . . *to the extent authorized by their registration.*'' (emphasis added).

As found above, on October 5, 2009, Applicant applied for a new registration as a practitioner. Notwithstanding that the application form clearly instructed him to check all drug schedules for which he sought authority, Applicant checked the box for only schedule II narcotics. Accordingly, the Agency granted him a registration which was limited to schedule II narcotics. Applicant did not seek authority to dispense controlled substances in the additional schedules until June 6, 2011.

Thus, between October 6, 2009 (the date the application was granted) and June 6, 2011, Applicant could not lawfully prescribe any controlled substances outside of those narcotics in schedule II. The record, however, contains fifteen prescriptions for Xanax (alprazolam) and two prescriptions for Valium (diazepam), both of which are schedule IV controlled substances, as well as five prescriptions for Adderall (amphetamine), a schedule II non-narcotic, which Applicant issued without authority to do so. Even though Applicant eventually obtained a registration for the remaining drug schedules, Applicant was responsible for ensuring that he had obtained the necessary authority for each schedule of controlled substances he intended to dispense. I thus conclude that Applicant violated federal law by dispensing controlled substances for which he lacked authorization. 21 U.S.C. 822(b) & 841(a)(1).

Accordingly, I find that the Government's evidence with respect to factor two and four establishes a *prima facie* case that granting Applicant's application ''would be inconsistent with the public interest.'' *Id.* § 823(f). Because Applicant failed to respond to the Show Cause Order, whether by requesting a hearing or submitting a written statement, and thus has failed to offer any evidence to the contrary, I will order that his application be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f), as well as 28 CFR 0.100(b) and 0.104, I order that the application of Richard D. Vitalis, D.O., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This Order is effective immediately.

Dated: November 10, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2014–27206 Filed 11–17–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

TIME AND DATE: 10:30 a.m., Friday, November 21, 2014.

PLACE: U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC

STATUS: Closed.

MATTERS TO BE CONSIDERED: Determination on seven original jurisdiction cases.

CONTACT PERSON FOR MORE INFORMATION: Jacqueline Graham, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC 20530, (202) 346–7001.

Dated: November 14, 2014.

Isaac Fulwood,

Chairman, U.S. Parole Commission.

[FR Doc. 2014–27444 Filed 11–14–14; 4:15 pm]

BILLING CODE 4410–31–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Certificate of Medical Necessity

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, ''Certificate of Medical Necessity,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before December 18, 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=201410-1240-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, 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 sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Certificate of Medical Necessity, Form CM–893, information collection that a coal miner's physician completes and the OWCP uses to determine whether the miner meets impairment standards to qualify for durable medical equipment, home nursing, and/or pulmonary rehabilitation. This information collection has been classified as a revision, because of minor changes to the form designed to help a medical provider better understand the information needed to be provided. An accommodation statement has also been added to the form to inform a respondent who has a mental or physical limitation to contact the OWCP if further assistance is needed in completing the claims process. The Black Lung Benefits Act authorizes this information collection. *See* 30 U.S.C. 901.

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 1240–0024. The current approval is scheduled to expire on December 31, 2014; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 7, 2014 (79 FR 46280).

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 1240–0024. 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–OWCP.

Title of Collection: Certificate of Medical Necessity.

OMB Control Number: 1240–0024.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 2,500.

Total Estimated Number of Responses: 2,500.

Total Estimated Annual Time Burden: 965 hours.

Total Estimated Annual Other Costs Burden: $1,460.

Dated: November 12, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–27262 Filed 11–17–14; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. D–11819]

Notice of Hearing on Proposed Individual Exemption Involving Credit Suisse AG (Hereinafter, Either Credit Suisse AG or the Applicant)

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of Hearing.

SUMMARY: Notice is hereby given that the Department of Labor (the Department) will hold a hearing on January 15, 2015, relating to a proposed individual exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the Internal Revenue Code of 1986, as amended (the Code) that, if granted, would affect the ability of certain entities related to Credit Suisse AG to continue to rely upon the relief provided by Prohibited Transaction Class Exemption (PTE) 84–14. A notice of pendency of the proposed exemption was published in the **Federal Register** at 79 FR 52365 (September 3, 2014).

DATES: The hearing will be held on January 15, 2015, beginning at 10:00 a.m., EST.

ADDRESSES: The hearing will be held at the U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, in Room C5320.

FOR FURTHER INFORMATION CONTACT: Erin S. Hesse, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8546 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On September 3, 2014, the Department published in the **Federal Register**, at 79 FR 52365, a notice of pendency of a proposed individual exemption that, if granted, would permit: Certain affiliates of Credit Suisse AG (the Credit Suisse Affiliated Entities); and certain entities in which Credit Suisse AG owns a 5% or more interest (the Credit Suisse Related Entities), to continue to rely on the relief provided by Prohibited Transaction Class Exemption (PTE) 84–14,[1] notwithstanding a judgment of conviction against Credit Suisse AG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, Section 371, to be entered in the District Court for the Eastern District of Virginia in Case Number 1:14–cr–188–RBS. In that notice, the Department invited interested persons to submit written comments and any requests for a public hearing on the proposed exemption.

In response to the notice, the Department received several comments that expressed concern about the merits of the proposed exemption, including: whether the proposed exemption was in the interest of employee benefit plans and their participants and beneficiaries; and whether the safeguards in the proposed exemption are adequate to protect the rights of participants and beneficiaries of such employee benefit plans. The submissions received by the Department are available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of

[1] 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

Labor, Room N–1515, 200 Constitution Avenue NW., Washington, DC 20210.

After considering the comments, the Department has decided to hold a hearing regarding whether the Credit Suisse Affiliated Entities and the Credit Suisse Related Entities may prospectively rely on PTE 84–14 on a permanent, conditional basis. The hearing will be held on January 15, 2015, beginning at 10:00 a.m., EST, in Room C5320 at the Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Any interested person who wishes to be assured of an opportunity to present oral comments at the hearing should submit by December 29, 2014: (1) A written request to be heard; and (2) Five copies of an outline of the topics to be discussed. The topics to be discussed should address the effect that the proposed exemption, if granted, will have on employee benefit plans; including whether the proposed exemption is in the interest of plans and of their participants and beneficiaries, and whether the safeguards in the proposed exemption are adequate to protect the rights of participants and beneficiaries of such plans.

Presenters at the hearing should be aware that the Department is particularly interested in factual evidence that will enable the Department to determine whether the proposed exemption is in the interest of, and protective of, employee benefit plans and IRAs.

The request to be heard and accompanying outline should be sent to: Office of Exemption Determinations, Room N–5700, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, ''Attention: Application No. D–11819, Credit Suisse AG Exemption Hearing.'' Copies of your mailed submission may also be sent by electronic mail to *moffitt.betty@dol.gov* or by FAX to (202) 219–0204 by the end of the scheduled submission period. The notice of hearing, the proposed exemption, and any submissions received in respect of either will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1515, 200 Constitution Avenue NW., Washington, DC 20210. Comments, hearing requests, and other submissions will also be available online at *www.regulations.gov,* at no charge.

Warning: If you submit a written request to be heard, do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All hearing requests may be posted on the Internet and can be retrieved by most Internet search engines.

The Department will prepare an agenda indicating the order of presentation of oral comments. The Department reserves the right to restrict the agenda to those commenters whose outlines contain information that is within the scope of the topics to be discussed at the hearing. In the absence of special circumstances, each commenter will be allotted ten minutes in which to complete his or her presentation. Information about the agenda may be obtained on or after January 8, 2015, by contacting Mr. Erin Hesse, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8546 (this is not a toll-free phone number). Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The hearing will be transcribed.

Notice to Interested Persons

Within fifteen (15) calendar days of publication of the Notice of Public Hearing (the Notice) in the **Federal Register**, Credit Suisse AG shall provide notice to all interested persons in the manner agreed upon by the Applicant and the Department. Such notification will contain a copy of this Notice, as published in the **Federal Register**, and a copy of the notice of proposed exemption for Credit Suisse AG, as published in the **Federal Register** at 79 FR 52365 on September 3, 2014.

Notice of Public Hearing

Notice is hereby given that a public hearing will be held on January 15, 2015, regarding a proposed exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974, as amended, and from certain taxes imposed by the Internal Revenue Code of 1986, as amended, for transactions involving certain affiliates of Credit Suisse AG and entities in which Credit Suisse AG owns a 5% or more interest but which are not themselves affiliates.

The hearing will be held, beginning at 10:00 a.m., EST, in Room C–5320 at the Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 12th day of November, 2014.

Lyssa Hall,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2014–27174 Filed 11–17–14; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. D–11837]

Notice of Proposed Exemption Involving Credit Suisse AG Located in Zurich, Switzerland

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974, as amended (ERISA or the Act), and the Internal Revenue Code of 1986, as amended (the Code). This proposed exemption was developed by the Department on its own motion. If granted, the proposed exemption would increase, from one year to ten years, the period during which certain entities with specified relationships to Credit Suisse AG (hereinafter, Credit Suisse Affiliated QPAMs and Credit Suisse Related QPAMs) may rely on prohibited transaction class exemption (PTE) 84–14.

Effective Date: If granted, this proposed exemption will be effective for the period of time starting on the date a final exemption, if any, is published in the Federal Exemption, and ending on the date that is ten years following the date a judgment of conviction against Credit Suisse AG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, Section 371 (the Conviction) is entered in the District Court for the Eastern District of Virginia in Case Number 1:14–cr–188–RBS.

DATES: Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department within 45 days from the date of publication of this **Federal Register** Notice.

ADDRESSES: Comments and requests for a hearing should state: (1) The name, address, telephone number, and email

address of the person making the request, and (2) the nature of the person's interest in the proposed exemption and the manner in which the person would be adversely affected by the exemption, if granted. A hearing may be requested by any interested person and must state: (1) The name, address, telephone number, and email address of the person making the request; (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption; and (3) a statement of the issues to be addressed and a general description of the evidence to be presented at the hearing. The Department will grant a request for a hearing made in accordance with the requirements above where a hearing is necessary to fully explore material factual issues identified by the person requesting the hearing. A notice of such hearing shall be published by the Department in the **Federal Register**. The Department may decline to hold a hearing where: (1) The request for the hearing does not meet the requirements above; (2) the only issues identified for exploration at the hearing are matters of law; or (3) the factual issues identified can be fully explored through the submission of evidence in written (including electronic) form.

All written comments and requests for a public hearing concerning the proposed exemption should be directed to the Office of Exemption Determinations, Employee Benefits Security Administration, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Attention: Application No. D–11837. Interested persons may also submit comments and/or hearing requests to EBSA via email to *moffitt.betty@dol.gov,* by FAX to (202) 219–0204, or online through *http://www.regulations.gov.* Any such comments or requests should be sent by the end of the scheduled comment period. The application regarding the proposed exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1515, 200 Constitution Avenue NW., Washington, DC 20210. Comments and hearing requests will also be made available online through *http://www.regulations.gov* and *www.dol.gov/ebsa* at no charge.

Warning: All comments received will be included in the public record without change and will be made available online at *http://www.regulations.gov* and *www.dol.gov/ebsa.* The Department will endeavor to redact certain protected personal information, but it is possible that some such information may be disclosed. Therefore, if you submit a comment, the Department recommends that you include your name and other contact information in the body of your comment, but do not submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. Furthermore, if the Department cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment. Additionally, the *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the Department will not know your identity or contact information unless you complete the applicable fields or provide it in the body of your comment. If you send an email directly to the Department without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Internet.

FOR FURTHER INFORMATION CONTACT: Erin S. Hesse, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8546. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: If this proposed exemption is granted, certain entities with specified relationships to Credit Suisse AG must satisfy additional conditions in order to rely on, for a period of ten years, the relief provided by PTE 84–14 (49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010)). The exemption is being proposed by the Department on its own motion. Effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

Summary of Facts and Representations

1. On September 3, 2014, the Department published a proposed exemption for Application No. D–11819, at 79 FR 52365 (the First Proposed Exemption). Therein, the Department proposed relief for Credit Suisse Affiliated QPAMs and Credit Suisse Related QPAMs to continue to utilize the relief set forth in PTE 84–14 for a period of ten years, if certain conditions are met, notwithstanding the failure of those entities to meet the requirement set forth in section I(g) of that class exemption.[1] Following the issuance of that proposal, the Department received ten comments and four requests for a hearing. As described in a notice that appears elsewhere in today's **Federal Register**, the Department will be holding a hearing on January 15, 2015, in connection with those requests (the Hearing).

2. Given the upcoming Hearing and the possibility that new, factually relevant information regarding the transactions described in the First Proposed Exemption may be forthcoming, the Department is currently unable to make a final determination that relief for a ten year period is warranted. However, the Department is aware, based on representations from Credit Suisse AG, that plans and IRAs managed by Credit Suisse Affiliated QPAMs and Credit Suisse Related QPAMs may incur certain costs or losses to the extent relief under PTE 84–14 is suddenly unavailable on the date of the Conviction, which is tentatively scheduled for November 21, 2014. To prevent plans and IRAs from incurring such costs and losses, the Department is issuing in today's **Federal Register** a temporary final exemption that permits Credit Suisse Affiliated QPAMs and Credit Suisse Related QPAMs to continue to utilize the relief in PTE 84–14 for one year following the Conviction. This one year period is intended to be no longer than necessary for the Department to determine whether more permanent relief (i.e., the ten year period described herein) is warranted. Any such determination will be based on the entirety of the record attributable to this proposed exemption, which will include comments received from the Hearing and any comments received in connection with the publication of this proposed exemption.

3. In issuing the First Proposed Exemption, the Department had tentatively determined that it would be in the interest of affected plans and

[1] Section I(g) generally provides that ''[n]either the QPAM nor any affiliate thereof . . . nor any owner . . . of a 5 percent or more interest in the QPAM is a person who within the 10 years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of'' certain felonies including income tax evasion and conspiracy or attempt to commit income tax evasion.

IRAs to permit Credit Suisse Affiliated QPAMs and Credit Suisse Related QPAMs to continue to rely on PTE 84–14 for a period of ten years, to the extent certain additional conditions are met. This proposed exemption, if granted, would provide substantially the same relief described in the First Proposed Exemption, subject to substantially the same conditions. Accordingly, interested persons are directed to the First Proposed Exemption for the Department's views regarding the scope of relief and the adequacy of the conditions contained herein. The Department notes that it will only grant a final exemption to the extent it first finds that such relief is protective of, and in the interest of, affected plans and IRAs, and administratively feasible.

Notice to Interested Persons

Notice of the proposed exemption (the Notice) will be provided to all interested persons within fifteen (15) days of publication of the Notice in the **Federal Register**. The Notice will be provided to all interested persons in the manner agreed upon by the Applicant and the Department. Such notification will contain a copy of the Notice, as published in the **Federal Register**, and a supplemental statement, as required, pursuant to 29 CFR 2570.43(a)(2). The supplemental statement will inform all interested persons of their right to comment on and to request a hearing with respect to the pending exemption.

All written comments and/or requests for a hearing must be received by the Department within forty-five (45) days of the publication of the Notice in the **Federal Register**.

All comments will be made available to the public. *Warning:* If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of the exemption.

Proposed Exemption

Based on the foregoing facts, and those published in the Notice of Proposed Exemption at 79 FR 52365, the Department is considering granting an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and section 4975(c)(2) of the Internal Revenue Code of 1986, as amended (the Code), and in accordance with the procedures set forth in 29 CFR part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011).[2]

Section I: Covered Transactions

The Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs shall not be precluded from relying on the relief provided by Prohibited Transaction Class Exemption (PTE) 84–14[3] notwithstanding the Conviction (as defined in Section II(c)),[4] provided the following conditions are satisfied:

(a) Any failure of the Credit Suisse Affiliated QPAMs or the Credit Suisse Related QPAMs to satisfy Section I(g) of PTE 84–14 arose solely from the Conviction;

(b) The Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs (including officers, directors, agents other than Credit Suisse AG, and employees of such QPAMs) did not participate in the criminal conduct of Credit Suisse AG that is the subject of the Conviction;

(c) The Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs did not directly receive compensation in connection with the criminal conduct of Credit Suisse AG that is the subject of the Conviction;

(d) The criminal conduct of Credit Suisse AG that is the subject of the Conviction did not directly or indirectly involve the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or section 4975 of the Code (an IRA);

(e) Credit Suisse AG did not provide any fiduciary services to ERISA-covered plans or IRAs, except in connection with securities lending services of the New York Branch of Credit Suisse AG, or act as a QPAM for ERISA-covered plans or IRAs;

(f) A Credit Suisse Affiliated QPAM will not use its authority or influence to direct an ''investment fund'' (as defined in Section VI(b) of PTE 84–14) that is subject to ERISA and managed by such Credit Suisse Affiliated QPAM to enter into any transaction with Credit Suisse AG or engage Credit Suisse AG to provide additional services to such investment fund, for a direct or indirect fee borne by such investment fund regardless of whether such transactions or services may otherwise be within the scope of relief provided by an administrative or statutory exemption;

(g) Each Credit Suisse Affiliated QPAM will ensure that none of its employees or agents, if any, that were involved in the criminal conduct that underlies the Conviction will engage in

[2] For purposes of this proposed exemption, references to section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[3] 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

[4] Section I(g) generally provides that ''[n]either the QPAM nor any affiliate thereof . . . nor any owner . . . of a 5 percent or more interest in the QPAM is a person who within the 10 years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of'' certain felonies including income tax evasion and conspiracy or attempt to commit income tax evasion.

transactions on behalf of any ''investment fund'' (as defined in Section VI(b) of PTE 84–14) subject to ERISA and managed by such Credit Suisse Affiliated QPAMs;

(h)(1) Each Credit Suisse Affiliated QPAM immediately develops, implements, maintains, and follows written policies (the Policies) requiring and reasonably designed to ensure that: (i) The asset management decisions of the Credit Suisse Affiliated QPAMs are conducted independently of Credit Suisse AG's management and business activities; (ii) the Credit Suisse Affiliated QPAM fully complies with ERISA's fiduciary duties and ERISA and the Code's prohibited transaction provisions and does not knowingly participate in any violations of these duties and provisions with respect to ERISA-covered plans and IRAs; (iii) the Credit Suisse Affiliated QPAM does not knowingly participate in any other person's violation of ERISA or the Code with respect to ERISA-covered plans and IRAs; (iv) any filings or statements made by the Credit Suisse Affiliated QPAM to regulators, including but not limited to, the Department of Labor, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation, on behalf of ERISA-covered plans or IRAs are materially accurate and complete, to the best of such QPAM's knowledge at that time; (v) the Credit Suisse Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to ERISA-covered plans or IRAs, or make material misrepresentations or omit material information in its communications with ERISA-covered plan and IRA clients; (vi) the Credit Suisse Affiliated QPAM complies with the terms of this exemption; and (vii) any violations of or failure to comply with items (ii) through (vi) are corrected promptly upon discovery and any such violations or compliance failures not promptly corrected are reported, upon discovering the failure to promptly correct, in writing to appropriate corporate officers, the head of Compliance and the General Counsel of the relevant Credit Suisse Affiliated QPAM, the independent auditor responsible for reviewing compliance with the Policies, and a fiduciary of any affected ERISA-covered plan or IRA where such fiduciary is independent of Credit Suisse AG; however, with respect to any ERISA-covered plan or IRA sponsored by an ''affiliate'' (as defined in Section VI(d) of PTE 84–14) of Credit Suisse AG or beneficially owned by an employee of Credit Suisse AG or its affiliates, such fiduciary does not need to be independent of Credit Suisse AG; Credit Suisse Affiliated QPAMs will not be treated as having failed to develop, implement, maintain, or follow the Policies, provided that they correct any instances of noncompliance promptly when discovered or when they reasonably should have known of the noncompliance (whichever is earlier), and provided that they adhere to the reporting requirements set forth in this item (vii);

(2) Each Credit Suisse Affiliated QPAM immediately develops and implements a program of training (the Training), conducted at least annually for relevant Credit Suisse Affiliated QPAM asset management, legal, compliance, and internal audit personnel; the Training shall be set forth in the Policies and, at a minimum, covers the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions) and ethical conduct, the consequences for not complying with the conditions of this exemption, (including the loss of the exemptive relief provided herein), and prompt reporting of wrongdoing;

(i)(1) Each Credit Suisse Affiliated QPAM submits to an audit conducted annually by an independent auditor, who has been prudently selected and who has appropriate technical training and proficiency with ERISA to evaluate the adequacy of, and compliance with, the Policies and Training described in paragraph (h); the first of the audits must be completed no later than twelve (12) months after the date of Conviction and must cover the first six-month period that begins on the date of Conviction; all subsequent audits must cover the following corresponding twelve-month periods and be completed no later than six (6) months after the period to which it applies;

(2) The auditor's engagement shall specifically require the auditor to determine whether each Credit Suisse Affiliated QPAM has developed, implemented, maintained, and followed Policies in accordance with the conditions of this exemption and developed and implemented the Training, as required herein;

(3) The auditor's engagement shall specifically require the auditor to test each Credit Suisse Affiliated QPAM's operational compliance with the Policies and Training;

(4) For each audit, the auditor shall issue a written report (the Audit Report) to Credit Suisse AG and the Credit Suisse Affiliated QPAM to which the audit applies that describes the steps performed by the auditor during the course of its examination. The Audit Report shall include the auditor's specific determinations regarding the adequacy of the Policies and Training; the auditor's recommendations (if any) with respect to strengthening such Policies and Training; and any instances of the respective Credit Suisse Affiliated QPAM's noncompliance with the written Policies and Training described in paragraph (h) above. Any determinations made by the auditor regarding the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the Policies and Training of the respective Credit Suisse Affiliated QPAM shall be promptly addressed by such Credit Suisse Affiliated QPAM, and any actions taken by such Credit Suisse Affiliated QPAM to address such recommendations shall be included in an addendum to the Audit Report. Any determinations by the auditor that the respective Credit Suisse Affiliated QPAM has implemented, maintained, and followed sufficient Policies and Training shall not be based solely or in substantial part on an absence of evidence indicating noncompliance;

(5) The auditor shall notify the respective Credit Suisse Affiliated QPAM of any instances of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date. Upon request, the auditor shall provide OED with all of the relevant workpapers reflecting any instances of noncompliance. The workpapers shall include an explanation of any corrective or remedial actions taken by the respective Credit Suisse Affiliated QPAM;

(6) With respect to each Audit Report, an executive officer of the Credit Suisse Affiliated QPAM to which the Audit Report applies certifies in writing, under penalty of perjury, that the officer has reviewed the Audit Report and this exemption; addressed, corrected, or remediated any inadequacies identified in the Audit Report; and determined that the Policies and Training in effect at the time of signing are adequate to ensure compliance with the conditions of this exemption and with the applicable provisions of ERISA and the Code;

(7) An executive officer of Credit Suisse AG reviews the Audit Report for each Credit Suisse Affiliated QPAM and certifies in writing, under penalty of perjury, that such officer has reviewed each Audit Report;

(8) Each Credit Suisse Affiliated QPAM provides its certified Audit Report to the Department's Office of Exemption Determinations (OED), Room N–5700, 200 Constitution Avenue NW., Washington DC 20210, no later than 30 days following its completion, and each Credit Suisse Affiliated QPAM makes its Audit Report unconditionally available for examination by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of an ERISA-covered plan or IRA, the assets of which are managed by such Credit Suisse Affiliated QPAM;

(j) The Credit Suisse Affiliated QPAMs comply with each condition of PTE 84–14, as amended, with the sole exception of the violation of Section I(g) that is attributable to the Conviction;

(k) Effective from the date of publication of any granted exemption in the **Federal Register**, with respect to each ERISA-covered plan or IRA for which a Credit Suisse Affiliated QPAM provides asset management or other discretionary fiduciary services, each Credit Suisse Affiliated QPAM agrees: (1) To comply with ERISA and the Code, as applicable to the particular ERISA-covered plan or IRA, and refrain from engaging in prohibited transactions; (2) not to waive, limit, or qualify the liability of the Credit Suisse Affiliated QPAM for knowingly violating ERISA or the Code or engaging in prohibited transactions; (3) not to require the ERISA-covered plan or IRA (or sponsor of such ERISA-covered plan or beneficial owner of such IRA) to indemnify the Credit Suisse Affiliated QPAM for violating ERISA or engaging in prohibited transactions, except for violations or prohibited transactions caused by an error, misrepresentation, or misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of Credit Suisse AG; (4) not to restrict the ability of such ERISA-covered plan or IRA to terminate or withdraw from its arrangement with the Credit Suisse Affiliated QPAM; and (5) not to impose any fees, penalties, or charges for such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in like manner to all such investors. Within six (6) months of the date of publication of a granted exemption in the **Federal Register**, each Credit Suisse Affiliated QPAM will provide a notice to such effect to each ERISA-covered plan or IRA for which a Credit Suisse Affiliated QPAM provides asset management or other discretionary fiduciary services;

(l) If a final exemption is granted in the **Federal Register**, each Credit Suisse Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met for six (6) years following the date of any transaction for which such Credit Suisse Affiliated QPAM relies upon the relief in the exemption;

(m)(1) Each sponsor of an ERISA-covered plan and each beneficial owner of an IRA invested in an investment fund managed by a Credit Suisse Affiliated QPAM, or the sponsor of an investment fund in any case where a Credit Suisse Affiliated QPAM acts only as a sub-advisor to the investment fund; (2) each entity that may be a Credit Suisse Related QPAM; and (3) each ERISA-covered plan for which the New York Branch of Credit Suisse AG provides fiduciary securities lending services, receives a notice of the proposed exemption along with a separate summary describing the facts that led to the Conviction, which has been submitted to the Department, and a prominently displayed statement that the Conviction results in a failure to meet a condition in PTE 84–14;

(n) A Credit Suisse Affiliated QPAM will not fail to meet the terms of this exemption solely because a Credit Suisse Related QPAM or a different Credit Suisse Affiliated QPAM fails to satisfy a condition for relief under this exemption. A Credit Suisse Related QPAM will not fail to meet the terms of this exemption solely because Credit Suisse AG, a Credit Suisse Affiliated QPAM, or a different Credit Suisse Related QPAM fails to satisfy a condition for relief under this exemption.

Section II: Definitions

(a) The term ''Credit Suisse Affiliated QPAM'' means a ''qualified professional asset manager'' (as defined in section VI(a)[5] of PTE 84–14) that relies on the relief provided by PTE 84–14 and with respect to which Credit Suisse AG is a current or future ''affiliate'' (as defined in section VI(d) of PTE 84–14). The term ''Credit Suisse Affiliated QPAM'' excludes the parent entity, Credit Suisse AG.

(b) The term ''Credit Suisse Related QPAM'' means any current or future ''qualified professional asset manager'' (as defined in section VI(a) of PTE 84–14) that relies on the relief provided by PTE 84–14, and with respect to which Credit Suisse AG owns a direct or indirect five percent or more interest, but with respect to which Credit Suisse AG is not an ''affiliate'' (as defined in section VI(d) of PTE 84–14).

(c) The term ''Conviction'' means the judgment of conviction against Credit Suisse AG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, Section 371, which is scheduled to be entered in the District Court for the Eastern District of Virginia in Case Number 1:14-cr-188–RBS.

Signed at Washington, DC, this 12th day of November, 2014.

Lyssa Hall,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

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BILLING CODE 4510–29–P

[5] In general terms, a QPAM is an independent fiduciary that is a bank, savings and loan association, insurance company, or investment adviser that meets certain equity or net worth requirements and other licensure requirements and that has acknowledged in a written management agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2014–11; Application No. D–11819]

Notice of Exemption Involving Credit Suisse AG (Hereinafter, Either CSAG or the Applicant) Located in Zurich, Switzerland

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of Temporary Exemption.

SUMMARY: This document contains a notice of temporary exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974, as amended (ERISA or the Act), and the Internal Revenue Code of 1986, as amended (the Code). The exemption would affect the ability of certain entities with specified relationships to CSAG to continue to rely upon the relief provided by Prohibited Transaction Class Exemption 84–14 for a period of one year from the date of publication of this notice.

DATES: *Effective Date:* This temporary exemption will be effective as of the date a judgment of conviction against

CSAG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, section 371 is entered in the District Court for the Eastern District of Virginia in Case Number 1:14–cr–188–RBS and will expire one year from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Erin S. Hesse, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8546. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 3, 2014, the Department of Labor (the Department) published a notice of proposed exemption in the **Federal Register** at 79 FR 52365, proposing that certain entities with specified relationships to CSAG could continue to rely upon the relief provided by Prohibited Transaction Class Exemption (PTE) 84–14 (49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010)), notwithstanding a judgment of conviction against CSAG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, section 371, to be entered in the District Court for the Eastern District of Virginia in Case Number 1:14–cr–188–RBS. The proposed exemption described a set of additional conditions, designed to protect ERISA-covered plans and IRAs, that the entities with specified relationships to CSAG must satisfy in order to rely upon the relief in PTE 84–14. The exemption was requested by CSAG pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011). Effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

Written Comments

The Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of proposed exemption published in the **Federal Register** on September 3, 2014, at 79 FR 52365 on or before October 10, 2014. During the comment period, the Department received no telephone inquiries and ten written comments on the proposed exemption. The commenters include eight members of the general public, members of the U.S. House of Representatives (the Representatives), and the Applicant. Other than the Applicant, the commenters generally opposed granting an exemption to CSAG because of its pending criminal conviction or raised issues outside the scope of the exemption. The comment from the Applicant requested certain changes to the operative language of the exemption and provided additional information in support of the requested changes.

The Department also received four hearing requests during the comment period from individuals, including the Representatives. The Department has decided to hold a hearing, consistent with its authority under 29 CFR 2570.47, in order to more fully explore the issues raised by the commenters. A separate notice of hearing will be published elsewhere in this issue of the **Federal Register**.

A discussion of the comments, the Applicants' responses, and the Applicant's comment follows below. Any capitalized terms used herein that are not otherwise defined have the meanings ascribed to them in the Summary of Facts and Representations in the notice of proposed exemption published in the **Federal Register** on September 3, 2014 at 79 FR 52365.

Public Comments and Applicant's Response

1. Rollins, Lang, Rose, Johnson, and Blixseth Letters

The Rollins Letter expressed concern that grant of the proposed exemption would undermine the public interest in enforcing criminal sanctions for corporate misconduct and deterring future wrongdoing. The Lang letter asserted that fines alone were inadequate sanctions for the Applicant's misconduct and, accordingly, that the Department should deny the exemption. The Rose letter suggested that grant of an exemption would warrant presidential impeachment. The Johnson letter commented that approval of the exemption would send a message that large or politically powerful banks could ignore federal laws. The Johnson Letter also stressed that the federal government has an obligation to ensure the integrity of all companies dealing with pension funds. According to the letter, the cost to pension plans of moving funds away from asset managers affiliated with CSAG would be negligible if pension plans were given 30 days to relocate their accounts. The letter also suggested that grant of an exemption would prevent CSAG's criminal conviction from having its intended deterrent effect. Finally, the Blixseth letter described various business practices and controversies, which it asserted had resulted in past fines and settlements against CSAG and related entities, and argued for denial of the exemption application.

The Applicant noted the commenters' view that the exemption should be denied as a means of holding CSAG accountable and deterring other banks from criminal misconduct, but asserted that the Applicant nevertheless meets the standards under section 408(a) of ERISA for grant of an exemption. The Applicant disputed that there was any basis for denying an exemption to all of CSAG's affiliates and related entities based on the misconduct of a single entity. According to the Applicant, the arguments for denial of the exemption are inconsistent with section 411 of ERISA, which authorizes the Department to debar a fiduciary convicted of a felony, but not its affiliates.

The Applicant asserts that the need to hold CSAG accountable for criminal misconduct and the propriety of the Department of Justice's Plea Agreement are not at issue in the exemption process. Additionally, the Applicant suggests that the proposed exemption would hold CSAG accountable, in any event, because the relief would only be available to affiliated managers (not CSAG) and only if they follow fourteen stringent new conditions, in addition to the seven conditions in Part I of PTE 84–14 (including its integrity condition, Part I(g), as modified by the proposed exemption). The Applicant also states that CSAG already faces significant sanctions for criminal misconduct, as evidenced by its agreement to pay $2.8 billion to the Justice Department, Securities and Exchange Commission, Internal Revenue Service, New York State Department of Financial Services, and the Federal Reserve.

2. Spalding Letter

The Spalding letter commented that the proposed exemption was insufficiently detailed with respect to the investment strategies utilized by affected asset managers and with respect to the proposed audit requirements of the exemption. The letter also suggested that the Department should take an active role in preventing systemic flaws that are tied to market making consortiums.

The Applicant noted Mr. Spalding's objections to the exemption and his

concerns with respect to derivatives and other investment strategies that asset manager affiliates of CSAG could pursue, but argued that the propriety of these strategies should properly be left to the named fiduciaries or IRA owners who hire asset managers to pursue such strategies. The Applicant further argued that such concerns were irrelevant to the proposed exemption, which, did not address or concern specific investment strategies.

3. Representatives Waters, Lynch & Miller (the Representatives) Letter

The Representatives suggest that the American public has grown increasingly frustrated about a lack of accountability in our financial system, both with regard to conduct contributing to the financial crisis and to scandals that have occurred since then. While they note that law enforcement has obtained record monetary settlements in response to financial misconduct, the Representatives remain concerned that regulators are failing to use the full arsenal of tools available to them to protect the public and retirees from bad actors and to ensure that criminal behavior is appropriately deterred. The Representatives suggest that the beneficial status of ''qualified professional asset manager'' should be reserved for institutions that have shown a commitment to maintaining a high standard of integrity via compliance with the law and that the Department's process for evaluating exemption requests like the Applicant's may not be sufficiently robust to maintain this standard.

The Applicant asserts that the Department should not base its decision on the goals of deterrence and accountability for the same reasons set forth in its responses to the Rollins, Lang, Rose, Johnson, and Blixseth Letters, above. In addition, the Applicant states that conduct of other financial institutions in connection with the financial crisis and the question of whether those institutions have been appropriately punished are irrelevant to determining whether the Department should grant an exemption providing relief to affiliated managers of CSAG.

The Applicant also disputes that the Department's approval of past exemption requests relating to a failure of Section I(g) indicates that approval is automatic, thereby undermining financial firms' incentives to comply with the law and existing exemptions. The Applicant states that those exemptions imposed additional conditions appropriate to the particular cases at issue and were granted only after notice and comment from interested parties. The Applicant asserts that, consistent with the requirements of section 408(a) of ERISA, the Department has exercised appropriate caution, evaluated the benefits of the exemption to plans managed by affiliates of CSAG and fashioned a set of stringent additional conditions to ensure that plans' interests are protected.

In addition, the Applicant notes that CSAG, the entity that entered into the Plea Agreement with the Justice Department, is receiving no relief under the proposed exemption and will be unable to rely upon PTE 84–14 for ten years. The Applicant states that, consequently, the only entities receiving relief under the proposed exemption are affiliated asset managers that are registered U.S. advisers, have their own employees, compliance systems and record of legal compliance and that were not engaged in the conduct underlying the Plea Agreement. The Applicant also states that the exemption does not excuse these managers from compliance with Section I(g) of PTE 84–14, which requires that neither the manager nor its affiliates have been convicted of certain crimes. Under the proposed exemption, Section I(g) will continue to apply, with the sole exception of the Conviction resulting from the Plea Agreement.

Finally, the Applicant points to the imposition of fourteen additional substantive conditions in the proposed exemption, in addition to the seven conditions found in Part I of PTE 84–14, which include, among other things, compliance reviews by an independent auditor, policies and procedures covering six different substantive areas (e.g., independence of QPAM decisions from CSAG, ERISA compliance, and prompt reporting of violations), training on those policies and procedures, an annual audit, and significant reporting to plans and to the Department. The Applicant adds that the new conditions also require that no employee who participated in the conduct underlying the Plea Agreement be involved in the affiliate's asset management decisions, and that the affiliate will not cause plans to trade with, or procure services for a fee from CSAG, ensuring separation of the affiliates' asset management decisions from the influence of CSAG.

4. Public Citizen Letter

In its letter, Public Citizen stresses the importance of deterring criminal activity and expresses its view that grant of the exemption would undermine deterrence. In addition, Public Citizen questions whether it can be verified that employees of CSAG's affiliates were uninvolved in the crime. The Applicant believes that its response to the letters from Rollins, Lang, Rose, Johnson, and Blixseth is also responsive to Public Citizen's concern about deterrence and corporate abuse. The Applicant additionally argues that CSAG engaged in an extensive due diligence process to ensure that it could certify the truth of its statement that its affiliates' employees were uninvolved in CSAG's criminal activities, and that, as a protective safeguard, the proposed exemption is expressly conditioned on the fact that no employee involved in the crime will participate in the asset management decisions of the investment managers.

5. Financial Recovery and Consulting Services Pty Ltd (FRCS) Letter

The FRCS letter explains that FRCS represents international and U.S. former customers of CSAG who were victims of a fraud or embezzlement. The letter outlines information that FRCS believes should have been, but was not, included in CSAG's application to the Department requesting the proposed exemption. FRCS requests that the Department only consider granting temporary relief to the Applicant, if any relief is to be given. In support of this request, FRCS submitted a history of conduct at various Credit Suisse affiliates that FRCS considers corrupt. Finally, FRCS suggests that CSAG's application does not meet the statutory requirements for an exemption to be issued.

In response, the Applicant objects to any suggestion that the Department deny the exemption as a means to punish CSAG for misconduct, and references its response to the similar concerns expressed in the Rollins, Lang, Rose, Johnson, and Blixseth Letters. The Applicant also disputes FRCS' argument that plan costs could be reduced appropriately by granting temporary relief to allow Credit Suisse affiliates to liquidate plan accounts over time. Furthermore, the Applicant states that the comment failed to take into account the costs that denying the exemption would impose on plans that continue to use CSAG affiliates to manage their assets. According to CSAG, those plans would lose access to the trading and pricing efficiencies that PTE 84–14 affords for a period of ten years after the conviction.

Applicant's Comment

The Applicant's comment generally requests a variety of changes to the operative language of the exemption, requests clarification on the meaning of certain language, and provides

additional information in support of any requests for changes or clarification.

1. *Section I(b).*

As proposed, Section I(b) of the exemption conditions relief on a requirement that the Credit Suisse Affiliated QPAMs, Credit Suisse Related QPAMs, and their officers, directors, ''agents,'' and employees not have participated in the criminal conduct that is the subject of the Conviction. The Applicant requests that the term ''agents'' be removed from Section I(b). The Applicant states that, to the best of its knowledge after due inquiry, the Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs did not participate in the criminal conduct nor did their officers, directors, or employees. However, the Applicant notes that CSAG, which was involved in the criminal conduct, could have previously acted as an agent for a Credit Suisse Affiliated QPAM in some capacity that is unconnected to its criminal conduct or asset management decisions, such as service of process in a foreign country. Therefore, in light of the potentially broad scope of the term ''agents,'' the Applicant is reluctant to make a representation that includes the term ''agents.'' After consideration of the comment, the Department has substituted ''agents other than Credit Suisse AG'' for the term ''agents.'' Thus, subject to this modification, it remains a condition of the exemption that ''[t]he Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs (including officers, directors, agents other than Credit Suisse AG, and employees of such QPAMs) did not participate in the criminal conduct of Credit Suisse AG that is the subject of the Conviction.'' Accordingly, the QPAMs, their officers, directors, agents (other than CSAG), and employees must not have aided, assisted in, procured, counseled, or advised the preparation and presentation of false income tax returns and other documents to the Internal Revenue Service of the Treasury Department.

2. *Section I(d).*

The Applicant requests clarification that an ''ERISA-covered plan'' or ''IRA'' in Section I(d) and throughout the exemption refers only to plans subject to Part 4 of Title I of ERISA and section 4975 of the Code. That was the Department's intent and it has, therefore, clarified that an ''ERISA-covered plan'' or ''IRA'' refers only to such plans by substituting ''subject to Part 4 of Title I of ERISA'' for ''described in section 3(3) of ERISA'' and ''section 4975 of the Code'' for ''section 4975(e)(1) of the Code.'' Thus, subject to this modification, it remains a condition of the exemption that ''[t]he criminal conduct of Credit Suisse AG that is the subject of the Conviction did not directly or indirectly involve the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or section 4975 of the Code (an IRA).

3. *Section I(f).*

As proposed, Section I(f) of the exemption provides that a Credit Suisse Affiliated QPAM will not use its authority or influence to direct an investment fund managed by the QPAM to enter into any transaction with Credit Suisse AG or engage Credit Suisse AG to provide additional services for a fee borne by the investment fund.

The Applicant requests that Section I(f) provide an exception for certain subcustody arrangements entered into with CSAG by global custodians that are unaffiliated with CSAG. According to the Applicant, to the extent that a Credit Suisse Affiliated QPAM invests in a market where CSAG is the local subcustodian or effects the transaction in that market, CSAG could receive compensation from the global custodian.

The Department declines to add a specific exception to the language in Section I(f) as requested by the Applicant. In this regard, the Department is concerned about the potential for self-dealing inasmuch as, depending on the facts and circumstances, a Credit Suisse Affiliated QPAM might effectively use its ''authority or influence to direct'' an investment fund to ''enter into any transaction with'' CSAG or ''provide additional services, for a fee borne by'' the investment fund. The Department notes, however, that it is not expressing a view on whether any particular transaction would constitute a separate prohibited transaction under ERISA or the Code.

The Applicant also requests clarification that if a Credit Suisse Affiliated QPAM obtains services from CSAG without cost to an ERISA-covered plan or IRA (e.g., at the QPAM's own expense), the condition in Section I(f) will not be violated. The Department clarifies that services provided for no additional cost to an ERISA-covered plan or IRA would not fall within the scope of Section I(f). Accordingly, the Department has modified the phrase ''provide additional services for a fee to the investment fund'' to read, ''provide additional services to such investment fund, for a direct or indirect fee borne by such investment fund'' to make the intent of this Section I(f) clear.

The Applicant additionally requests that Section I(f) provide an exception for transactions covered under PTE 75–1, Part III and PTE 2008–07,[1] which permit Credit Suisse Affiliated QPAMs to purchase securities from third parties in an underwriting syndicate where a Credit Suisse Affiliated QPAM's affiliate is a member or manager of the underwriting syndicate. The Applicant believes that prohibiting the use of such exemptions would harm plans, especially with respect to foreign issuers, where CSAG may often be a manager or member of an underwriting syndicate. The Department declines to add language that excepts transactions covered by PTE 75–1, Part III and PTE 2008–07 from this condition because the transactions permitted by these PTEs are not within the scope of transactions prohibited under Section I(f).

4. *Section I(g).*

Section I(g) of the proposed exemption provides that Credit Suisse AG and each Credit Suisse Affiliated QPAM will ensure that no employee or agent involved in the criminal conduct that underlies the Conviction will engage in transactions on behalf of any investment fund. The Applicant requests that the reference to ''Credit Suisse AG'' be removed from this section since CSAG is the convicted entity and the Credit Suisse Affiliated QPAMs are in the best position to ensure compliance with the requirements of the condition provided in Section I(g). Additionally, the Applicant represents that CSAG lacks the authority to monitor all of the Credit Suisse Affiliated QPAMs or to dictate hiring decisions because CSAG may not have operational control of certain Credit Suisse Affiliated QPAMs despite having ''control'' (as that term is defined in Section VI(e) of PTE 84–14) [2] over such entities. The Department concurs that the responsibility for complying with this condition should be imposed upon the Credit Suisse Affiliated QPAMs, and has removed the reference to ''Credit Suisse AG'' in Section I(g) and also added ''Each'' to the beginning of this section to clarify that the condition is imposed upon each individual Credit Suisse Affiliated QPAM and that each such Credit Suisse Affiliated QPAM is responsible only for maintaining its own compliance, rather than the compliance of all other Credit Suisse Affiliated QPAMs. Furthermore, the phrase ''subject to ERISA'' has been

[1] For PTE 75–1, see 40 FR 50845 (October 31, 1975), as amended at 69 FR 23216 (April 28, 2004), 71 FR 5883 (February 3, 2006), and 78 FR 37572 (June 21, 2013); for PTE 2008–07, see 73 FR 27565 (May 13, 2008).

[2] Section VI(e) of PTE 84–14 defines the term ''control'' as the power to exercise a controlling influence over the management or policies of a person other than an individual.

added to Section I(g) after the reference to ''investment fund'' to provide additional clarification that Section I(g) only applies to investment funds for which relief under PTE 84–14 is used.

Additionally, the Applicant requests clarification that a Credit Suisse Affiliated QPAM's failure to comply with this condition will prevent only that particular QPAM from relying on this exemption rather than disqualifying all of the other Credit Suisse Affiliated QPAMs. The Department believes that the changes noted above, combined with changes made to Section I(n), discussed below, provide the necessary clarification to this section and address the Applicant's concerns.

Finally, the Applicant requests that the term ''agent'' be removed from this section because of its breadth. The Department declines to remove the term ''agent'' because it could permit the Credit Suisse Affiliated QPAMs to use individuals involved in CSAG's criminal activities as their agents. Accordingly, Section I(g) provides that each Credit Suisse Affiliated QPAM is obligated to ensure that none of its employee or agents, if any, that were involved in the criminal conduct that underlies the Conviction will engage in transactions on behalf of the investment funds it manages.

5. *Section I(h).*

Section I(h) of the proposed Exemption requires the Applicant to adopt and adhere to specified policies and procedures (the Policies). The Applicant requests that the scope of Section I(h) be clarified to make clear that the requirements of Section I(h) apply to the Credit Suisse Affiliated QPAMs' ERISA-covered plan and IRA clients. The Applicant notes that, in its original form, this section could be interpreted to apply to the assets of other individuals and entities that are not subject to ERISA or the Code. The Applicant also asks the Department to provide clarification on the scope of laws covered by Section I(h)'s requirement of compliance with various state and federal laws, including whether such compliance specifically relates to the asset management activities of the QPAMs with respect to their ERISA-covered plans and IRAs.

The Department notes that Section I(h) only applies to ERISA-covered plans and IRAs since the relief in PTE 84–14 only applies to such plans and IRAS. However, the Department agrees that additional language could clarify this intent. Therefore, the Department has added qualifying language, where appropriate, to indicate that the requirements of Section I(h) apply to ERISA-covered plans and IRAs, and with respect to compliance with the requirements of ERISA and the Code.

The Applicant also requests that the term ''follow'' be removed from the prefatory clause of Section I(h), which requires the Credit Suisse Affiliated QPAMs to follow and adhere to the mandated Policies. The Applicant objects that if ''follow'' is interpreted strictly, it could result in a failure by a Credit Suisse Affiliated QPAM to meet the condition in this section if a Credit Suisse Affiliated QPAM does not perfectly adhere to the Policies and avoid all mistakes, including inadvertent, technical, or good faith errors. Alternatively, the Applicant asks for clarification that the term ''follow'' means only that a Credit Suisse Affiliated QPAM must promptly follow the Policies' correction and reporting mechanisms when it knows or should know of a violation of such Policies.

The Department declines to remove the term ''follow'' from the prefatory clause of Section I(h), inasmuch as it intends for the Credit Suisse Affiliated QPAMs not only to adopt the mandated Policies, but also to adhere to them. The Department agrees, however, that the Credit Suisse Affiliated QPAMs—and the plans they serve—should not run the risk of losing the exemption based on inadvertent, good faith, or de minimis compliance errors. Accordingly, the Department has amended Subsection I(h)(vii) of the exemption to provide that they will not be treated as having failed to develop, implement, maintain or follow the Policies, provided that they correct any instances of noncompliance promptly when discovered or when they reasonably should have known of the noncompliance (whichever is earlier), and provided that they adhere to the reporting requirements for violations that are not promptly corrected.

The Applicant also requests that the reference to ''asset management operations'' be removed from Subsection I(h)(1)(i). The Applicant explains that ''asset management decisions'' fully encompasses fiduciary decision-making by Credit Suisse Affiliated QPAMs. In contrast, ''asset management operations'' could include unrelated business activities, such as information technology security, employee non-discrimination, and workplace, safety, and health issues, matters in which CSAG may, in fact, be involved, but which have no impact on the independence of asset management decisions. Based on this additional information provided by the Applicant, the Department concurs and has removed the phrase ''and asset management operations'' from this subsection.

Furthermore, the Applicant requests that references to ''Credit Suisse AG'' be removed from Subsection I(h)(1)(ii)–(vii) because CSAG does not act as a fiduciary for ERISA-covered plans or IRAs in reliance on PTE 84–14. Additionally, the Applicant suggests that imposing these requirements on CSAG would potentially impact branches in non-U.S. markets that do not have any ERISA-covered plan or IRA clients. The Department concurs that this condition should only apply to each Credit Suisse Affiliated QPAM that relies upon PTE 84–14. Therefore, consistent with other sections where the phrase ''Credit Suisse AG'' has been removed, it has also been removed from these subsections.

The Applicant also requests that the filing requirements in Subsections I(h)(1)(iv) and (v) be modified to clarify that they apply only to filings with regulators of ERISA-covered plans and IRAS, including the Department of Labor, Department of the Treasury, Department of Justice, and the Pension Benefit Guaranty Corporation. The Department generally concurs with this modification, but notes that the regulators identified in the operative language are listed solely as examples. To the extent that Credit Suisse Affiliated QPAMs engage in filings on behalf of ERISA-covered plans and IRAs with other regulators, those filings would also be covered by these subsections. Therefore, the Department has modified the phrase ''any filings or statements made to federal, state, or local government are accurate and complete'' in Subsection I(h)(1)(iv) to read, ''any filings or statements made by the Credit Suisse Affiliated QPAMs to regulators, including but not limited to, the Department of Labor, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation, on behalf of ERISA-covered plans or IRAs are materially accurate and complete, to the best of such QPAM's knowledge at that time.'' Additionally, the Department has modified the phrase ''the Credit Suisse Affiliated QPAMs do not make material misrepresentations or omit material information in their communications with federal, state, or local government, or their ERISA-covered plan and IRA clients'' in Subsection I(h)(1)(v) to read, ''the Credit Suisse Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to ERISA-covered plans or IRAs, or make material misrepresentations or omit material

information in its communications with ERISA-covered plan and IRA clients.''

The Applicant requests that the condition in Subsection I(h)(1)(vii) requiring reporting of violations to specified persons apply only when a Credit Suisse Affiliated QPAM fails to follow the correction and reporting mechanisms built into the Policies, and not in every instance. The Applicant suggests that reporting every error, even those that are generally considered correctable in accordance with ERISA or the Code, may overwhelm the reports' recipients and provide little protection to ERISA-covered plans and IRAs. The Department agrees with the Applicant and has modified the phrase ''any violations of or failure to comply with items (ii) through (vi) are promptly reported in writing'' in Subsection I(h)(1)(vii) to read, ''any violations of or failure to comply with items (ii) through (vi) are corrected promptly upon discovery and any such violations or compliance failures not promptly corrected are reported, upon discovering the failure to promptly correct, in writing . . .''

The Department notes, however, that as part of the auditor's review of the operational compliance of each Credit Suisse Affiliated QPAM (as noted in Subsection I(i)(3)), each Credit Suisse Affiliated QPAM should provide documentation to the auditor that reflects any appropriate corrections made as outlined in the Policies. The Department notes further that the documentation of the errors is a means by which the auditor may test operational compliance with the Policies and demonstrate a QPAM's ERISA and Code compliance.

The Applicant requests additional clarification with respect to Subsection I(h)(1)(vii). First, the Applicant requests that each Credit Suisse Affiliated QPAM be required to report to its own General Counsel for Asset Management and head of Compliance, positions which currently exist at each Credit Suisse Affiliated QPAM. Second, the Applicant requests that the Department clarify that a ''non-QPAM fiduciary'' in the context of this subsection is a fiduciary for any affected ERISA-covered plan or IRA who is independent of the Applicant and its affiliates, regardless of whether such fiduciary also happens to be a QPAM, but that such fiduciary need not be independent when dealing with one of its affiliates' own plans or the IRAs of their employees. The Department concurs that clarification is appropriate and has thus changed ''the head of U.S. Asset Management Compliance'' and ''the General Counsel for Asset Management'' to ''the head of Compliance'' and ''the General Counsel of the relevant Credit Suisse Affiliated QPAM.'' The Department has also modified ''non-QPAM fiduciary of any affected ERISA-covered Plan or IRA'' to read, ''a fiduciary of any affected ERISA-covered plan or IRA where such fiduciary is independent of Credit Suisse AG; however, with respect to any ERISA-covered plans or IRAs sponsored by an affiliate (as defined in Section VI(d) of PTE 84–14) of Credit Suisse AG or beneficially owned by an employee of Credit Suisse AG or its affiliates, such fiduciary does not need to be independent of Credit Suisse AG.''

The Applicant also requests that Subsections I(h)(1) and I(h)(2), with respect to reporting violations, only apply to violations with respect to the development and implementation of the Policies and Training. The Department disagrees that such a limitation is appropriate because those subsections simply outline what should be included in the Policies and Training. Additionally, the Department notes the other changes made to Subsection I(h)(1) significantly clarify the nature of violations and compliance failures that must be reported. Finally, the Department notes that the Credit Suisse Affiliated QPAMs, as fiduciaries, may have additional notification responsibilities and duties outside the scope of this exemption.

6. *Section I(i).*

The Applicant requests that references to ''Credit Suisse AG'' be removed from Section I(i) since only the Credit Suisse Affiliated QPAMs will have Policies and Training in place. The Department concurs with this change and has removed all references to ''Credit Suisse AG'' from Subsection I(i) except in Subsection I(i)(4), which requires that CSAG, the parent company of the Credit Suisse Affiliated QPAMs, also receive the Audit Reports. It is the Department's view that CSAG should generally be on notice of the legal compliance efforts of its subsidiary-affiliates.

The Applicant additionally requests clarification that the audit requirement will apply to a Credit Suisse Affiliated QPAM only at such time as it has ERISA-covered plan clients or IRA clients for which it relies upon PTE 84–14. The Department notes that any current and future affiliates that are not currently relying on PTE 84–14 for transactions need not submit to an audit (and therefore need not have Policies and Training in place) until such time as they begin relying on the relief in PTE 84–14.

Furthermore, the Applicant requests that the compliance review, determination, and testing contemplated in Subsections I(i)(1), (2), and (3) should be limited to the development, maintenance, and implementation of the Policies and Training. The Department believes that based on modifications already made to Section I(h), limiting this condition as requested by the Applicant is unnecessary. Section I(h) has already been modified to apply to ERISA-covered plans and IRAs and compliance with laws applicable to such plans and IRAs. Additionally, the Department believes operational compliance is an important aspect of protecting ERISA-covered plan and IRA clients of the Credit Suisse Affiliated QPAMs. Therefore, the Department declines to limit Subsections I(i)(1), (2), and (3) in the requested manner.

The Applicant requests confirmation that, with respect to the audit requirement in Section I(i) of the exemption, each of the Credit Suisse Affiliated QPAMs may be covered by a separate audit and Audit Report. The Applicant notes that there are situations where a Credit Suisse Affiliated QPAM is not wholly owned by CSAG, and such QPAM might be a competitor with another Credit Suisse Affiliated QPAM. The Department did not intend to require that all of the Credit Suisse Affiliated QPAMs be covered by a single Audit Report and has substituted the phrase ''each Credit Suisse Affiliated QPAM'' in place of ''the Credit Suisse Affiliated QPAMs,'' where appropriate in Section I(i), to reflect the requested confirmation.

The Applicant also requests that the Department confirm that the phrase ''any instances of Credit Suisse AG's or the Credit Suisse Affiliated QPAMs' noncompliance with the written Policies and Training described in paragraph (h) above,'' In Subsection I(i)(4) refers only to failures to develop and implement the Policies and Training. The Department notes that this language, now modified to remove the reference to ''Credit Suisse AG'' requires that any instances of noncompliance which are not corrected in accordance with the Policies and which are reported separately to the Auditor under Subsection I(h)(1)(vii) should be noted in the Audit Report. The auditor may also choose to utilize its discretion under this requirement to include, for example, a type of error that occurs frequently despite being properly corrected on each occasion, where, in the auditor's independent judgment, such repeated errors might rise to a level that the auditor determines should be addressed by a particular Credit Suisse Affiliated QPAM.

The Applicant requests clarification that where the auditor identifies an instance of noncompliance while engaging in the audit, under Subsection I(i)(5), that such notification only needs to be sent to the Credit Suisse Affiliated QPAM to which it applies. The Department notes that the Applicant's understanding of Subsection I(i)(5) is correct and has modified the phrase ''The auditor shall notify Credit Suisse AG and the Credit Suisse Affiliated QPAMs'' in Subsection I(i)(5) to read, ''The auditor shall notify the respective Credit Suisse Affiliated QPAM'' in order to provide additional clarification. Furthermore, the Department has decided to strike the sentence, ''Credit Suisse AG or a Credit Suisse Affiliated QPAM shall provide written notice to the Department's Office of Exemption Determinations (OED), Room N–5700, 200 Constitution Avenue NW., Washington, DC 20210: Of any instances of noncompliance reviewed by the auditor within ten (10) business days after such notice is received from the auditor'' from the final temporary exemption because all such instances of noncompliance should be included in the Audit Reports, which the Department will receive upon completion thereof.

The Applicant notes that in the last sentence of Subsection I(i)(5), the reference to an ''explanation of any corrective actions taken by Credit Suisse AG'' should refer to corrective actions taken by a Credit Suisse Affiliated QPAM since the Credit Suisse Affiliated QPAMs must operate independently of CSAG. The Department concurs and has changed that phrase so that it now reads, ''explanation of any corrective or remedial actions taken by the respective Credit Suisse Affiliated QPAM.''

Finally, the Applicant requests that the reference to ''Credit Suisse AG'' also be removed from Subsection I(i)(6) and that the executive officer of each Credit Suisse Affiliated QPAM only be responsible for certifying its own Audit Report. The Department concurs that the executive of each Credit Suisse Affiliated QPAM officer need only certify the Audit Report for the particular QPAM for which he/she works. However, the Department believes it is important for CSAG to be on notice of the content contained in the Audit Reports. Therefore, the Department has modified the language in Subsection I(i)(6) to indicate that each Credit Suisse Affiliated QPAM is responsible for certifying its own audit and the sufficiency of its Policies and Training, but has added new Subsection I(i)(7) that requires an executive officer of CSAG to certify in writing that he/she has reviewed the Audit Reports of the Credit Suisse Affiliated QPAMs. The former Subsection I(i)(7) has been renumbered as I(i)(8).

7. *Section I(k).*

Additionally, the Applicant asserts that the phrase ''or other services'' in Section I(k) requiring CSAG and the Credit Suisse Affiliated QPAMs to agree to certain undertakings in their agreements with their ERISA-covered plan and IRA clients, may be overbroad, especially as it applies to one of the Credit Suisse Affiliated QPAMs that is a dual-registrant (i.e., both broker-dealer and investment adviser). Therefore, the Applicant requests that the phrase ''or other services'' in Section I(k) be changed to read, ''or other discretionary fiduciary services.'' The Department concurs with the Applicant's request to clarify the scope of Section I(k), and has altered Section I(k) accordingly.

The Applicant also notes that, with respect to the undertakings required by Section I(k), the Credit Suisse Affiliated QPAMs do not have the authority to unilaterally modify their contracts with ERISA-covered plans and IRAs, and that getting bilateral approval of such a change with each client would be time-consuming. Therefore, the Applicant proposes that the Department impose a unilateral requirement on the Credit Suisse Affiliated QPAMs which would effectively incorporate the same protections for ERISA-covered plans and IRAs. The Department concurs that this is a sensible modification that will not reduce the protections for ERISA-covered plans and IRAs, and, accordingly, the exemption has been modified to require that the Credit Suisse Affiliated QPAMs send notice to their ERISA-covered plan and IRA clients of this unilateral requirement within six months of the date of a final granted exemption in the **Federal Register**. Additionally, the Department has added language that clearly makes the undertakings required by Section I(k) effective immediately upon publication of this final granted temporary exemption, although the Credit Suisse Affiliated QPAMs have six months to complete the notification.

The Applicant requests that ''the Code'' be referenced in appropriate places in Section I(k) to clarify the scope of the applicability to IRAs. The Department concurs and has modified the language in Section I(k) where appropriate.

The Applicant also requests clarification whether, under Section I(k), the Credit Suisse Affiliated QPAMS are prohibited from being indemnified for prohibited transactions that are not caused by the Credit Suisse Affiliated QPAMs (i.e., where the plan fiduciary or a service provider selected by the plan fiduciary and unrelated to CSAG or a Credit Suisse Affiliated QPAM causes a prohibited transaction or error). The Department confirms that the Credit Suisse Affiliated QPAMs are not prohibited from being indemnified in such circumstances, and the Department has added the phrase ''except for violations or prohibited transactions caused by an error, misrepresentation, or misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of Credit Suisse AG'' to clause (3) of Section I(k).

Finally, the Applicant requests a modification to the requirement in Section I(k) that provides that any agreements between CSAG, Credit Suisse Affiliated QPAMs, and their ERISA-covered plan and IRA clients allow for such clients to terminate or withdraw from their arrangements with CSAG or the Credit Suisse Affiliated QPAMs without any fees, penalties or other charges. The Applicant requests that such requirement only apply to separately managed accounts and only with respect to undisclosed or unreasonable fees, penalties, or charges for such termination or withdrawal. The Applicant represents that all such agreements have reasonable termination provisions, such as 30 days' advance notice, and in the case of separately managed accounts, a plan fiduciary can remove assets from an asset manager's control immediately, in any event. However, the Applicant informs the Department that in a pooled fund, depending on the investment strategy, a longer withdrawal period may be required to protect other investors or address limited liquidity in fund assets, which has been fully disclosed and agreed to by plan fiduciaries. Additionally, the Applicant adds that there may be redemption fees in a pooled fund, which are directed at preventing market timing in order to protect other investors in the fund. The Department notes that the language in Section I(k) was not intended to prevent reasonable fees which are intended to protect other investors or prevent market abuses, but rather to cover fees or charges that could otherwise discourage a client from moving to a new asset manager. Therefore, the Department has added clarifying language at the end of clause (5) of Section I(k) that excepts ''reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure equitable treatment

of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in like manner to all such investors.''

8. *Section I(m).*

The Applicant requests confirmation that, in accordance with Section I(m), notice to interested persons is required to be sent only to ERISA-covered plans and IRAs with respect to which PTE 84–14 may be used and that were clients as of the date the proposal was published in the **Federal Register**. The Department confirms this understanding.

9. *Section I(n).*

The Applicant asks for clarification in three areas with respect to Section I(n). First, the Applicant requests clarification that a Credit Suisse Affiliated QPAM will not fail to meet the terms of the exemption solely because a different Credit Suisse Affiliated QPAM or a Credit Suisse Related QPAM fails to satisfy a condition for relief under this exemption. The Department clarifies that a Credit Suisse Affiliated QPAM will not fail to meet the terms of the exemption if a Credit Suisse Related QPAM fails to satisfy a condition for relief. However, as originally drafted, if one Credit Suisse Affiliated QPAM failed to meet the terms of the exemption, all other Credit Suisse Affiliated QPAMs could be disqualified. After further consideration, the Department decided that it is not appropriate to jeopardize the transactions of ERISA-covered plans and IRAs that have no relationship to the particular Credit Suisse Affiliated QPAM that fails to meet a condition. Therefore, the sentence in Section I(n) that reads, ''A Credit Suisse Affiliated QPAM will not fail to meet the terms of this proposed exemption, if granted, solely because a Credit Suisse Related QPAM fails to satisfy a condition for relief under this exemption'' has been modified to read, ''A Credit Suisse Affiliated QPAM will not fail to meet the terms of this exemption solely because a Credit Suisse Related QPAM or a different Credit Suisse Affiliated QPAM fails to satisfy a condition for relief under this exemption.''

Second, the Applicant requests clarification that if a Credit Suisse Affiliated QPAM fails to meet the conditions of the exemption for a particular transaction or a particular ERISA-covered plan or IRA, such failure only precludes the Credit Suisse Affiliated QPAM's reliance on the exemption for such transaction or ERISA-covered plan or IRA for the period of non-compliance. The Department confirms the Applicant's understanding and clarifies that, to the extent that the conditions of PTE 84–14 are incorporated by reference into this exemption, failure to satisfy a condition of PTE 84–14 will have the same effect as it would if the Applicant was operating only under PTE 84–14. That is, the relief will not be available for a particular transaction, as opposed to an absolute bar to use of the exemptive relief for all future transactions. However, the conditions that are unique to this individual exemption must be met in their entirety in order for Credit Suisse Affiliated QPAMs or Credit Suisse Related QPAMs to remain eligible for the relief in this exemption.

Third, the Applicant requests clarification that the failure of a Credit Suisse Related QPAM or CSAG to satisfy a condition of this exemption will not cause a Credit Suisse Related QPAM to lose the relief herein. The Department clarifies that a Credit Suisse Related QPAM will not lose the relief in this exemption due to any failures of another Credit Suisse Related QPAM or CSAG. However, if CSAG fails to review the Audit Reports, as required by Subsection I(i)(7), CSAG will jeopardize the availability of relief under this individual exemption for all of the Credit Suisse Affiliated QPAMs.

Conclusion

After giving full consideration to the entire record, including the written comments, subject to the Department's responses thereto, the Department has decided to grant a temporary exemption, as modified. The exemption will be effective as of the date a judgment of conviction against Credit Suisse AG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, Section 371 is entered in the District Court for the Eastern District of Virginia in Case Number 1:14–cr–188–RBS and expire one year from the date of publication in the **Federal Register**.

This exemption is granted on a temporary basis to accommodate requests for a public hearing on whether to grant longer term relief without risking the immediate loss of exemptive relief upon entry of a judgment of conviction. This exemption will prevent disruptions in retirement plan investments while a final determination is made on the Credit Suisse Affiliated QPAM's and the Credit Suisse Related QPAM's ability to serve retirement plan clients under PTE 84–14. At the same time that the Department is issuing this exemption, it is also publishing a proposed exemption for longer term relief and a notice of a public hearing on whether to grant such longer term relief to the Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs.

The complete application file is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the proposed exemption published in the **Federal Register** on September 3, 2014 at 79 FR 52365.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department makes the following determinations: The exemption is administratively feasible, the exemption is in the interests of the plan and of its participants and beneficiaries, and the exemption is protective of the rights of participants and beneficiaries of the plan;

(3) The exemption is supplemental to, and not in derogation of, any other provisions of ERISA, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately

describe all material terms of the transaction which is the subject of the exemption.

Accordingly, the following exemption is granted under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011):

Exemption [3]

Section I: Covered Transactions

The Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs shall not be precluded from relying on the relief provided by Prohibited Transaction Class Exemption (PTE) 84–14 [4] notwithstanding the Conviction (as defined in Section II(c)),[5] provided the following conditions are satisfied:

(a) Any failure of the Credit Suisse Affiliated QPAMs or the Credit Suisse Related QPAMs to satisfy Section I(g) of PTE 84–14 arose solely from the Conviction;

(b) The Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs (including officers, directors, agents other than Credit Suisse AG, and employees of such QPAMs) did not participate in the criminal conduct of Credit Suisse AG that is the subject of the Conviction;

(c) The Credit Suisse Affiliated QPAMs and the Credit Suisse Related QPAMs did not directly receive compensation in connection with the criminal conduct of Credit Suisse AG that is the subject of the Conviction;

(d) The criminal conduct of Credit Suisse AG that is the subject of the Conviction did not directly or indirectly involve the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or section 4975 of the Code (an IRA);

(e) Credit Suisse AG did not provide any fiduciary services to ERISA-covered plans or IRAs, except in connection with securities lending services of the New York Branch of Credit Suisse AG, or act as a QPAM for ERISA-covered plans or IRAs;

(f) A Credit Suisse Affiliated QPAM will not use its authority or influence to direct an ''investment fund'' (as defined in Section VI(b) of PTE 84–14) that is subject to ERISA and managed by such Credit Suisse Affiliated QPAM to enter into any transaction with Credit Suisse AG or engage Credit Suisse AG to provide additional services to such investment fund, for a direct or indirect fee borne by such investment fund regardless of whether such transactions or services may otherwise be within the scope of relief provided by an administrative or statutory exemption;

(g) Each Credit Suisse Affiliated QPAM will ensure that none of its employees or agents, if any, that were involved in the criminal conduct that underlies the Conviction will engage in transactions on behalf of any ''investment fund'' (as defined in Section VI(b) of PTE 84–14) subject to ERISA and managed by such Credit Suisse Affiliated QPAMs;

(h)(1) Each Credit Suisse Affiliated QPAM immediately develops, implements, maintains, and follows written policies (the Policies) requiring and reasonably designed to ensure that: (i) The asset management decisions of the Credit Suisse Affiliated QPAMs are conducted independently of Credit Suisse AG's management and business activities; (ii) the Credit Suisse Affiliated QPAM fully complies with ERISA's fiduciary duties and ERISA and the Code's prohibited transaction provisions and does not knowingly participate in any violations of these duties and provisions with respect to ERISA-covered plans and IRAs; (iii) the Credit Suisse Affiliated QPAM does not knowingly participate in any other person's violation of ERISA or the Code with respect to ERISA-covered plans and IRAs; (iv) any filings or statements made by the Credit Suisse Affiliated QPAM to regulators, including but not limited to, the Department of Labor, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation, on behalf of ERISA-covered plans or IRAs are materially accurate and complete, to the best of such QPAM's knowledge at that time; (v) the Credit Suisse Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to ERISA-covered plans or IRAs, or make material misrepresentations or omit material information in its communications with ERISA-covered plan and IRA clients; (vi) the Credit Suisse Affiliated QPAM complies with the terms of this exemption; and (vii) any violations of or failure to comply with items (ii) through (vi) are corrected promptly upon discovery and any such violations or compliance failures not promptly corrected are reported, upon discovering the failure to promptly correct, in writing to appropriate corporate officers, the head of Compliance and the General Counsel of the relevant Credit Suisse Affiliated QPAM, the independent auditor responsible for reviewing compliance with the Policies, and a fiduciary of any affected ERISA-covered plan or IRA where such fiduciary is independent of Credit Suisse AG; however, with respect to any ERISA-covered plan or IRA sponsored by an ''affiliate'' (as defined in Section VI(d) of PTE 84–14) of Credit Suisse AG or beneficially owned by an employee of Credit Suisse AG or its affiliates, such fiduciary does not need to be independent of Credit Suisse AG; Credit Suisse Affiliated QPAMs will not be treated as having failed to develop, implement, maintain, or follow the Policies, provided that they correct any instances of noncompliance promptly when discovered or when they reasonably should have known of the noncompliance (whichever is earlier), and provided that they adhere to the reporting requirements set forth in this item (vii);

(2) Each Credit Suisse Affiliated QPAM immediately develops and implements a program of training (the Training), conducted at least annually for relevant Credit Suisse Affiliated QPAM asset management, legal, compliance, and internal audit personnel; the Training shall be set forth in the Policies and, at a minimum, covers the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions) and ethical conduct, the consequences for not complying with the conditions of this exemption, (including the loss of the exemptive relief provided herein), and prompt reporting of wrongdoing;

(i)(1) Each Credit Suisse Affiliated QPAM submits to an audit by an independent auditor, who has been prudently selected and who has appropriate technical training and proficiency with ERISA to evaluate the adequacy of, and compliance with, the Policies and Training required in paragraph (h); the audit requirement must be incorporated in the Policies and the first of the audits must be completed no later than ten (10) months after the date of Conviction. The audit must cover the first six-month period that begins on the date of Conviction; under the terms of the Policies, the second audit must cover the following corresponding six-month period and be

[3] For purposes of this exemption, references to section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[4] 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

[5] Section I(g) generally provides that ''[n]either the QPAM nor any affiliate thereof . . . nor any owner . . . of a 5 percent or more interest in the QPAM is a person who within the 10 years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of'' certain felonies including income tax evasion and conspiracy or attempt to commit income tax evasion.

completed no later than four (4) months after the period to which the audit applies;

(2) The auditor's engagement shall specifically require the auditor to determine whether each Credit Suisse Affiliated QPAM has developed, implemented, maintained, and followed Policies in accordance with the conditions of this exemption and developed and implemented the Training, as required herein;

(3) The auditor's engagement shall specifically require the auditor to test each Credit Suisse Affiliated QPAM's operational compliance with the Policies and Training;

(4) For each audit, the auditor shall issue a written report (the Audit Report) to Credit Suisse AG and the Credit Suisse Affiliated QPAM to which the audit applies that describes the steps performed by the auditor during the course of its examination. The Audit Report shall include the auditor's specific determinations regarding the adequacy of the Policies and Training; the auditor's recommendations (if any) with respect to strengthening such Policies and Training; and any instances of the respective Credit Suisse Affiliated QPAM's noncompliance with the written Policies and Training described in paragraph (h) above. Any determinations made by the auditor regarding the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the Policies and Training of the respective Credit Suisse Affiliated QPAM shall be promptly addressed by such Credit Suisse Affiliated QPAM, and any actions taken by such Credit Suisse Affiliated QPAM to address such recommendations shall be included in an addendum to the Audit Report. Any determinations by the auditor that the respective Credit Suisse Affiliated QPAM has implemented, maintained, and followed sufficient Policies and Training shall not be based solely or in substantial part on an absence of evidence indicating noncompliance;

(5) The auditor shall notify the respective Credit Suisse Affiliated QPAM of any instances of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date. Upon request, the auditor shall provide OED with all of the relevant workpapers reflecting any instances of noncompliance. The workpapers shall include an explanation of any corrective or remedial actions taken by the respective Credit Suisse Affiliated QPAM;

(6) With respect to each Audit Report, an executive officer of the Credit Suisse Affiliated QPAM to which the Audit Report applies certifies in writing, under penalty of perjury, that the officer has reviewed the Audit Report and this exemption; addressed, corrected, or remediated any inadequacies identified in the Audit Report; and determined that the Policies and Training in effect at the time of signing are adequate to ensure compliance with the conditions of this exemption and with the applicable provisions of ERISA and the Code;

(7) An executive officer of Credit Suisse AG reviews the Audit Report for each Credit Suisse Affiliated QPAM and certifies in writing, under penalty of perjury, that such officer has reviewed each Audit Report;

(8) Each Credit Suisse Affiliated QPAM provides its certified Audit Report to the Department's Office of Exemption Determinations (OED), Room N–5700, 200 Constitution Avenue NW., Washington, DC 20210, no later than 30 days following its completion, and each Credit Suisse Affiliated QPAM makes its Audit Report unconditionally available for examination by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of an ERISA-covered plan or IRA, the assets of which are managed by such Credit Suisse Affiliated QPAM;

(j) The Credit Suisse Affiliated QPAMs comply with each condition of PTE 84–14, as amended, with the sole exception of the violation of Section I(g) that is attributable to the Conviction;

(k) Effective from the date of publication of this exemption in the **Federal Register**, with respect to each ERISA-covered plan or IRA for which a Credit Suisse Affiliated QPAM provides asset management or other discretionary fiduciary services, each Credit Suisse Affiliated QPAM agrees: (1) To comply with ERISA and the Code, as applicable to the particular ERISA-covered plan or IRA, and refrain from engaging in prohibited transactions; (2) not to waive, limit, or qualify the liability of the Credit Suisse Affiliated QPAM for violating ERISA or the Code or engaging in prohibited transactions; (3) not to require the ERISA-covered plan or IRA (or sponsor of such ERISA-covered plan or beneficial owner of such IRA) to indemnify the Credit Suisse Affiliated QPAM for violating ERISA or engaging in prohibited transactions, except for violations or prohibited transactions caused by an error, misrepresentation, or misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of Credit Suisse AG; (4) not to restrict the ability of such ERISA-covered plan or IRA to terminate or withdraw from its arrangement with the Credit Suisse Affiliated QPAM; and (5) not to impose any fees, penalties, or charges for such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in like manner to all such investors. Within six (6) months of the date of publication of this exemption in the **Federal Register**, each Credit Suisse Affiliated QPAM will provide a notice to such effect to each ERISA-covered plan or IRA for which a Credit Suisse Affiliated QPAM provides asset management or other discretionary fiduciary services;

(l) Effective from the date of publication of this exemption in the **Federal Register**, each Credit Suisse Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met for six (6) years following the date of any transaction for which such Credit Suisse Affiliated QPAM relies upon the relief in the exemption;

(m)(1) Each sponsor of an ERISA-covered plan and each beneficial owner of an IRA invested in an investment fund managed by a Credit Suisse Affiliated QPAM, or the sponsor of an investment fund in any case where a Credit Suisse Affiliated QPAM acts only as a sub-advisor to the investment fund; (2) each entity that may be a Credit Suisse Related QPAM; and (3) each ERISA-covered plan for which the New York Branch of Credit Suisse AG provides fiduciary securities lending services, received a notice of the proposed exemption along with a separate summary describing the facts that led to the Conviction, which had been submitted to the Department, and a prominently displayed statement that the Conviction results in a failure to meet a condition in PTE 84–14;

(n) A Credit Suisse Affiliated QPAM will not fail to meet the terms of this exemption solely because a Credit Suisse Related QPAM or a different Credit Suisse Affiliated QPAM fails to satisfy a condition for relief under this exemption. A Credit Suisse Related QPAM will not fail to meet the terms of this exemption solely because Credit

Suisse AG, a Credit Suisse Affiliated QPAM, or a different Credit Suisse Related QPAM fails to satisfy a condition for relief under this exemption.

Section II: Definitions

(a) The term ''Credit Suisse Affiliated QPAM'' means a ''qualified professional asset manager'' (as defined in section VI(a) [6] of PTE 84–14) that relies on the relief provided by PTE 84–14 and with respect to which Credit Suisse AG is a current or future ''affiliate'' (as defined in section VI(d) of PTE 84–14). The term ''Credit Suisse Affiliated QPAM'' excludes the parent entity, Credit Suisse AG.

(b) The term ''Credit Suisse Related QPAM'' means any current or future ''qualified professional asset manager'' (as defined in section VI(a) of PTE 84–14) that relies on the relief provided by PTE 84–14, and with respect to which Credit Suisse AG owns a direct or indirect five percent or more interest, but with respect to which Credit Suisse AG is not an ''affiliate'' (as defined in section VI(d) of PTE 84–14).

(c) The term ''Conviction'' means the judgment of conviction against Credit Suisse AG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, Section 371, which is scheduled to be entered in the District Court for the Eastern District of Virginia in Case Number 1:14–cr–188–RBS.

Effective Date: This exemption will be effective as of the date a judgment of conviction against Credit Suisse AG for one count of conspiracy to violate section 7206(2) of the Internal Revenue Code in violation of Title 18, United States Code, Section 371 is entered in the District Court for the Eastern District of Virginia in Case Number 1:14–cr–188–RBS and expire one year from the date of publication in the **Federal Register**.

Signed at Washington, DC, this 12th day of November, 2014.

Lyssa Hall,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2014–27172 Filed 11–17–14; 8:45 am]

BILLING CODE 4510–29–P

[6] In general terms, a QPAM is an independent fiduciary that is a bank, savings and loan association, insurance company, or investment adviser that meets certain equity or net worth requirements and other licensure requirements and that has acknowledged in a written management agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

OFFICE OF MANAGEMENT AND BUDGET

Calendar Year 2014 Cost of Outpatient Medical, Dental, and Cosmetic Surgery Services Furnished by Department of Defense Medical Treatment Facilities; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: By virtue of the authority vested in the President by section 2(a) of Public Law 87–603 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget (OMB) by the President through Executive Order No. 11541 of July 1, 1970, the rates referenced below are hereby established. These rates are for use in connection with the recovery from tortiously liable third persons for the cost of outpatient medical, dental, and cosmetic surgery services furnished by military treatment facilities through the Department of Defense (DoD). The rates were established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. *The CY14 Outpatient Medical, Dental, and Cosmetic Surgery rates* referenced are effective upon publication of this notice in the **Federal Register** and will remain in effect until further notice. Previously published inpatient rates remain in effect until further notice. Pharmacy rates are updated periodically. A full disclosure of the rates is posted at the DoD's Uniform Business Office Web site: *http://www.tricare.mil/ocfo/mcfs/ubo/mhs_rates.cfm.*

Shaun Donovan,

Director.

[FR Doc. 2014–27208 Filed 11–17–14; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 14–119]

Final Environmental Impact Statement: Mars 2020 Mission

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability (NOA) of the Final Environmental Impact Statement (FEIS) for implementation of the Mars 2020 Mission.

SUMMARY: This Environmental Impact Statement (EIS) is a tiered document (Tier 2 EIS) under NASA's Programmatic EIS for the Mars Exploration Program (MEP). The FEIS presents descriptions of the proposed Mars 2020 mission, spacecraft, and candidate launch vehicles; an overview of the affected environment at and near the launch site; and the potential environmental consequences associated with the Proposed Action and alternatives, including the No Action Alternative.

DATES: NASA will issue a Record of Decision (ROD) for the proposed Mars 2020 mission either by December 19, 2014, or after 30 days from the date of publication of the NOA of the Mars 2020 FEIS in the **Federal Register** of the U.S. Environmental Protection Agency (EPA) NOA of the Mars 2020 FEIS, whichever is later.

ADDRESSES: The FEIS may be reviewed at the NASA Headquarters Library (Washington, DC), the Jet Propulsion Laboratory Visitors Lobby (Pasadena, CA), as well as public libraries in Florida including Central Brevard, Cocoa Beach, Merritt Island, Port St. John, Cape Canaveral and Titusville. Limited hard copies of the FEIS are available and may be requested by contacting Mr. George Tahu at the address, telephone number, or electronic mail address indicated below. The FEIS is available electronically to download and read at *http://www.nasa.gov/agency/nepa/mars2020eis.* NASA's ROD will also be placed on this Web site when it is issued. Anyone who desires a hard copy of NASA's ROD when it is issued should contact Mr. Tahu.

FOR FURTHER INFORMATION CONTACT: Mr. George Tahu, Planetary Science Division, Science Mission Directorate, NASA Headquarters, Washington, DC 20546–0001, telephone 202–358–0016, or electronic mail to *mars2020-nepa@lists.nasa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act of 1969, as Amended, (NEPA) (42 U.S.C. 4321 et seq.), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA NEPA regulations (14 CFR Part 1216 subpart 1216.3), NASA has prepared and issued an FEIS for the proposed Mars 2020 mission.

The purpose of this proposed mission is to continue NASA's in-depth exploration of Mars by conducting comprehensive science on the surface of Mars. The mission would consist of a highly mobile science laboratory (rover) designed to explore and investigate in

detail a site on Mars in support of the overall scientific goal to address questions of habitability and the potential origin and evolution of life on Mars. The rover would include new in situ scientific instrumentation designed to seek signs of past life. This instrumentation would be used to select a suite of samples that would be stored in a retrievable cache for a potential future mission to return to Earth. The Mars 2020 mission would also demonstrate technology for future exploration of Mars (e.g., small secondary payloads or other technologies applicable to both robotic and human missions).

The FEIS evaluates three alternatives in addition to the No Action Alternative. Under the Proposed Action, Alternative 1, NASA's Preferred Alternative, the proposed Mars 2020 rover would utilize a radioisotope power system, a Multi-Mission Radioisotope Thermoelectric Generator (MMRTG), as its primary source of heat and electrical power to operate and conduct science on the surface of Mars. Under Alternative 2, the proposed Mars 2020 rover would utilize solar energy as its primary source of electrical power to operate and conduct science on the surface of Mars. Under Alternative 3, the proposed Mars 2020 rover would utilize solar energy as its primary source of electrical power augmented by the thermal output from Light Weight Radioisotope Heater Units (LWRHUs) to help keep the rover's on board systems at proper operating temperatures to conduct science on the surface of Mars.

Under the Proposed Action (Alternative 1), Alternative 2 or Alternative 3, the Mars 2020 spacecraft would be launched on board an expendable launch vehicle from Kennedy Space Center (KSC) or Cape Canaveral Air Force Station (CCAFS), Florida during the July through August 2020 time period. The arrival date at Mars would range from January 2021 to March 2021. Should the mission be delayed, the proposed Mars 2020 mission would be launched during the next available launch opportunity in August through September 2022. Under the No Action Alternative, NASA would discontinue preparations for the Mars 2020 mission, and the spacecraft would not be launched.

With either the Proposed Action (Alternative 1), Alternative 2, or Alternative 3, the potentially affected environment for a launch accident includes the area at and in the vicinity of the launch site, KSC/CCAFS in Florida. Potential launch accidents could result in the release of some of the radioactive fuel from within the MMRTG. The MMRTG planned for use on the rover for the Proposed Action (Alternative 1) would use approximately 4.8 kilograms (10.6 pounds) of plutonium dioxide to provide heat and electrical power. The LWRHUs planned for use on the rover for Alternative 3 would use approximately 192 grams (0.42 pounds) of plutonium dioxide to provide heat.

The U.S. Department of Energy (DOE) served as a cooperating agency for this NEPA action, and in cooperation with NASA, performed a risk assessment of potential accidents for the Mars 2020 mission. This assessment used a methodology refined through applications to the Galileo, Ulysses, Cassini, Mars Exploration Rover, New Horizons, and Mars Science Laboratory missions. DOE's risk assessment for the proposed Mars 2020 mission utilizing an MMRTG, Alternative 1, indicates that in the unlikely event of a launch accident, a release of radioactive material is not expected. The risk assessment also indicates that in the unlikely event of a launch accident under Alternative 3, a release of radioactive material is not expected.

NASA published a NOA of the Draft EIS (DEIS) for the Mars 2020 mission in the **Federal Register** on June 5, 2014, (79 FR 32577) and made the DEIS available in electronic format on its Web site, *http://www.nasa.gov/agency/nepa/mars2020eis.* The EPA published its NOA in the **Federal Register** on June 6, 2014, (79 FR 32729). In addition, NASA published its NOA of the DEIS in local newspapers in the Cape Canaveral, Florida regional area, and held an online public meeting (also advertised in local newspapers and NASA social media sites) on June 26, 2014, during which attendees were invited to present both oral and written comments on the DEIS. No comments concerning the DEIS were submitted during the online public meeting. NASA received 10 comment submissions (by letter, email, and telephone) during the comment period ending July 21, 2014. The comments are addressed in the FEIS.

Cheryl E. Parker,

Federal Register Liaison Officer.

[FR Doc. 2014–27184 Filed 11–17–14; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (14–118)]

NASA Advisory Council Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council (NAC).

DATES: Monday, December 8, 2014, 1:00 p.m.–5:00 p.m.; Tuesday, December 9, 2014, 9:00 a.m.–5:00 p.m., Local Time.

ADDRESSES: NASA Stennis Space Center, Roy S. Estess Building, Building 1100, Room 321, Stennis Space Center, MS 39529–6000.

FOR FURTHER INFORMATION CONTACT: Ms. Marla King, NAC Administrative Officer, NASA Headquarters, Washington, DC 20546, 202–358–1148.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include the following:

— Aeronautics Committee Report
— Human Exploration and Operations Committee Report
— Institutional Committee Report
— Science Committee Report
— Technology, Innovation and Engineering Committee Report

The meeting will be open to the public up to the seating capacity of the room. This meeting is also available telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll free access number 1–844–467–6272 or toll access number 1–720–259–6462, and then the numeric participant passcode: 382190 followed by the # sign. To join via WebEx, the link is *https://nasa.webex.com/.* The meeting number is 995 801 100, and the password is 12082014d!. The meeting number and password are the same for both days. (Passwords are case-sensitive.) NOTE: If dialing in, please ''mute'' your telephone. Attendees will be required to sign a register and comply with NASA Stennis Space Center security requirements, including the presentation of a valid picture ID before receiving access to NASA Stennis Space Center. Due to the Real ID Act, Public Law 109–13, any attendees with drivers licenses issued from non-compliant states must present a second form of ID. Non-compliant states are: American Samoa, Arizona, Louisiana, Maine, Minnesota, New York, Oklahoma and Washington. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 15 days prior to the meeting: full name; home address; gender; citizenship; date/city/country of birth; title, position or duties; visa type,

number and expiration date; passport number, expiration date and country of issue; and employer/affiliation information (name of institution, address, country, telephone, email, phone). Contact the International Visitor Coordinator, Mary Treat, at (228) 688–3916 for the specifics on any foreign national visitors. To expedite admittance, attendees with U.S. citizenship and Permanent Residents (green card holders) can provide identifying information 3 working days in advance by emailing the NASA Office of Communications at *SSC–PAO@mail.nasa.gov.*

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–27183 Filed 11–17–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (14–117)]

NASA International Space Station Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the NASA International Space Station (ISS) Advisory Committee. The purpose of the meeting is to review all aspects related to the safety and operational readiness of the ISS, and to assess the possibilities for using the ISS for future space exploration.

DATES: Thursday, December 11, 2014, 2:00–3:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 5H42–A, 300 E Street SW., Washington, DC 20546. Note: 5H42–A is located on the fifth floor of NASA Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Mann, Office of International and Interagency Relations, (202) 358–5140, NASA Headquarters, Washington, DC 20546–0001.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. This meeting is also accessible via teleconference. To participate telephonically, please contact Mr. Greg Mann as noted above before 4:30 p.m., Local Time, on December 10, 2014. Please provide name, affiliation, and phone number.

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID before receiving access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship and Permanent Residents (green card holders) can provide full name and citizenship status 3 working days in advance to Mr. Mann via email at *gmann@nasa.gov,* by telephone at (202) 358–5140, or fax at (202) 358–3030. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–27182 Filed 11–17–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Proposed Information Collection; Correction

AGENCY: National Science Foundation.

ACTION: Notice; correction.

SUMMARY: The National Science Foundation published a notice on November 7, 2014, at 79 FR 66419, seeking comments on establishing an information collection for the Foundation's Large Facilities Program's Large Facilities Manual. The document did not include the link to view the draft manual.

FOR FURTHER INFORMATION CONTACT: Please send comments to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Correction

In the **Federal Register** of November 7, 2014, in FR Doc. 2014–26444, on page 66419, in the third column, in the **ADDRESSES** caption to read: ''The draft Large Facilities Manual may be found at the following link: *http://www.nsf.gov/bfa/lfo/NSF_Large_Facilities_Manual_110414_1700-WM_(for_OMB).pdf.* Written comments regarding the information collection and requests for hard copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov*.''

Dated: November 13, 2014.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2014–27249 Filed 11–17–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Computing & Communication Foundations; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Science and Technology Centers—Integrative Partnerships (#1192) Site Visit.

Date/Time:

December 7, 2014—6:30 p.m.–8:30 p.m.
December 8, 2014—8:00 a.m.–8:00 p.m.
December 9, 2014—8:30 a.m.–3:00 p.m.

Place: Purdue University, West Lafayette, IN.

Type of Meeting: Part Open.

Contact Person: John Cozzens, National Science Foundation, 4201 Wilson Boulevard, Room 1115, Arlington, VA 22230. Telephone: (703) 292–8910.

Purpose of Meeting: To assess the progress of the STC Award: 0939370, ''Emerging Frontiers of Science of Information'', and to provide advise and recommendations concerning further NSF support for the Center.

Agenda: CSoI Site Visit:

Sunday, December 7, 2014.

6:30 p.m. to 8:30 p.m.: Closed.

Site Team and NSF Staff meets to discuss Site Visit materials, review process and charge.

Monday, December 8, 2014.

8:00 a.m. to 1:00 p.m.: Open.

Presentations by Awardee Institution, faculty staff and students to Site Team and NSF Staff; Discussions and question and answer sessions.

1:00 p.m.—8:00 p.m.: Closed.

Draft report on education and research activities.

Tuesday, December 9, 2014.

8:30 a.m.—noon: Open.

Response to presentations by Site Team and NSF Staff Awardee Institution faculty staff; Discussions and question and answer sessions.

Noon to 3:00 p.m.: Closed.

Complete written site visit report with preliminary recommendations.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 12, 2014.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2014–27178 Filed 11–17–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Business and Operations Advisory Committee; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Business and Operations Advisory Committee (9556).

Date/Time: December 11, 2014; 1:00 p.m. to 5:30 p.m. (EST), December 12, 2014; 8:00 a.m. to 12:00 p.m. (EST).

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230; Stafford I, Room 1235.

Type of Meeting: Open.

Contact Person: Joan Miller, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8200.

Purpose of Meeting: To provide advice concerning issues related to the oversight, integrity, development and enhancement of NSF's business operations.

Agenda:

December 11, 2014

Welcome/Introductions; BFA/OIRM Updates; iTRAK Update; NSF Relocation Update; Succession Planning; Managing Change at NSF; Strategic Review Process.

December 12, 2014

Risk-Based Management; Prepare for Discussion with Dr. Córdova; Discussion with Dr. Córdova; Meeting Wrap-Up.

Dated: November 13, 2014.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2014–27233 Filed 11–17–14; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 13h–1 and Form 13H, SEC File No. 270–614, OMB Control No. 3235–0682.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.* ''PRA''), the Securities and Exchange Commission (''SEC'' or ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in Rule 13h–1 (17 CFR 240.13h–1) and Form 13H—registration of large traders [1] submitted pursuant to Section 13(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Rule 13h–1 and Form 13H under Section 13(h) of the Exchange Act established a large trader reporting framework.[2] The framework assists the Commission in identifying and obtaining certain baseline information about traders that conduct a substantial amount of trading activity, as measured by volume or market value, in the U.S. securities markets.

The identification, recordkeeping, and reporting framework provides the Commission with a mechanism to identify large traders and their affiliates, accounts, and transactions. Specifically, the rule requires large traders to identify themselves to the Commission and make certain disclosures to the Commission on Form 13H. Upon receipt of Form 13H, the Commission issues a unique identification number to the large trader, which the large trader then provides to its registered broker-dealers. Certain registered broker-dealers are required to maintain transaction records for each large trader, and are required to report that information to the Commission upon request.[3] In addition, certain registered broker-dealers are required to adopt procedures to monitor their customers for activity that would trigger the identification requirements of the rule.

The respondents to the collection of information are large traders. Each new large trader respondent files one response, which takes approximately 20 hours to complete. The average internal cost of compliance per response is $5,177, calculated as follows: (3 hours of compliance manager time at $283 per hour) + (7 hours of legal time at $334 per hour) + (10 hours of paralegal time at $199 per hour) = $5,177. Additionally, on average, each large trader respondent (including new respondents) files 2 responses per year, which take approximately 6 hours to complete. The average internal cost of compliance per response is $1,632, calculated as follows: (2 hours of compliance manager time at $283 per hour) + (2 hours of legal time at $334 per hour) + (2 hours of paralegal time at $199 per hour) = $1,632.

Each registered broker-dealer's monitoring requirement takes approximately 15 hours per year. The average internal cost of compliance is $5,010, calculated as follows: 15 hours of legal time at $334 per hour = $5,010. The Commission estimates that it may send 100 requests specifically seeking large trader data per year to each registered broker-dealer subject to the rule, and it would take each registered broker-dealer 2 hours to comply with each request Accordingly, the annual reporting hour burden for a broker-dealer is estimated to be 200 burden hours (100 requests × 2 burden hours/request = 200 burden hours). The average internal cost of compliance per response is $398, calculated as follows: 2 hours of paralegal time at $199 per hour = $398.

Compliance with Rule 13h–1 is mandatory. The information collection under proposed Rule 13h–1 is considered confidential subject to the limited exceptions provided by the Freedom of Information Act.[4]

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.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of

[1] Rule 13h–1(a)(1) defines ''large trader'' as any person that directly or indirectly, including through other persons controlled by such person, exercises investment discretion over one or more accounts and effects transactions for the purchase or sale of any NMS security for or on behalf of such accounts, by or through one or more registered broker-dealers, in an aggregate amount equal to or greater than the identifying activity level or voluntarily registers as a large trader by filing electronically with the Commission Form 13H.

[2] *See* Securities Exchange Act Release No. 64976 (July 27, 2011), 76 FR 46959 (August 3, 2011).

[3] The Commission, pursuant to Rule 17a–25 (17 CFR 240.17a–25), currently collects transaction data from registered broker-dealers through the Electronic Blue Sheets (''EBS'') system to support its regulatory and enforcement activities. The large trader framework added two new fields, the time of the trade and the identity of the trader, to the EBS system.

[4] *See* 5 U.S.C. 552 and 15 U.S.C. 78m(h)(7).

Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 12, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27190 Filed 11–17–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 15c2–12,

SEC File No. 270–330, OMB Control No. 3235–0372.

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 existing collection of information provided for in Rule 15c2–12—Municipal Securities Disclosure (17 CFR 240.15c2–12) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Paragraph (b) of Rule 15c2–12 requires underwriters of municipal securities: (1) To obtain and review an official statement ''deemed final'' by an issuer of the securities, except for the omission of specified information prior to making a bid, purchase, offer, or sale of municipal securities; (2) in non-competitively bid offerings, to send, upon request, a copy of the most recent preliminary official statement (if one exists) to potential customers; (3) to contract with the issuer to receive, within a specified time, sufficient copies of the final official statement to comply with Rule 15c2–12's delivery requirement and the rules of the Municipal Securities Rulemaking Board (''MSRB''); (4) to send, upon request, a copy of the final official statement to potential customers for a specified period of time; and (5) before purchasing or selling municipal securities in connection with an offering, to reasonably determine that the issuer or the obligated person has undertaken, in a written agreement or contract, for the benefit of holders of such municipal securities, to provide certain information on a continuing basis to the MSRB in an electronic format as prescribed by the MSRB. The information to be provided consists of: (1) Certain annual financial and operating information and audited financial statements (''annual filings''); (2) notices of the occurrence of any of 14 specific events (''event notices''); and (3) notices of the failure of an issuer or obligated person to make a submission required by a continuing disclosure agreement (''failure to file notices'').

Rule 15c2–12 is intended to enhance disclosure in the municipal securities market, and thereby reduce fraud, by establishing standards for obtaining, reviewing and disseminating information about municipal securities by their underwriters.

Municipal offerings of less than $1 million are exempt from the rule, as are offerings of municipal securities issued in large denominations that are sold to no more than 35 sophisticated investors or have short-term maturities.

It is estimated that approximately 20,000 issuers, 250 broker-dealers and the MSRB will spend a total of 115,248 hours per year complying with Rule 15c2–12. Based on data from the MSRB through September 2014 and annualized through December 2014, issuers will submit approximately 62,596 annual filings to the MSRB in 2014. Commission staff estimates that an issuer will require approximately 45 minutes to prepare and submit annual filings to the MSRB. Therefore, the total annual burden on issuers to prepare and submit 62,596 annual filings to the MSRB is estimated to be 46,947 hours. Based on data from the MSRB through September 2014 and annualized through December 2014, issuers will submit approximately 73,480 event notices to the MSRB in 2014. Commission staff estimates that an issuer will require approximately 45 minutes to prepare and submit event notices to the MSRB. Therefore, the total annual burden on issuers to prepare and submit 73,480 event notices to the MSRB is estimated to be 55,110 hours. Based on data from the MSRB through September 2014 and annualized through December 2014, issuers will submit approximately 7,063 failure to file notices to the MSRB in 2014. Commission staff estimates that an issuer will require approximately 30 minutes to prepare and submit failure to file notices to the MSRB. Therefore, the total annual burden on issuers to prepare and submit 7,063 failure to file notices to the MSRB is estimated to be 3,531 hours. Commission staff estimates that the total annual burden on broker-dealers to comply with Rule 15c2–12 is 300 hours. Finally, Commission staff estimates that the MSRB will incur an annual burden of 9,360 hours to collect, index, store, retrieve and make available the pertinent documents under Rule 15c2–12.

Based on data provided by the MSRB, the Commission estimates that up to 65% of issuers may use designated agents to submit some or all of their continuing disclosure documents to the MSRB. The Commission estimates that the average total annual cost that may be incurred by issuers that use the services of a designated agent will be $9,750,000.[1]

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 unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Acting 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: November 12, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27191 Filed 11–17–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 20,000 (number of issuers) × .65 (percentage of issuers that may use designated agents) × $750 (estimated average annual cost for issuer's use of designated agent) = $9,750,000.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Commission will host the SEC Government-Business Forum on Small Business Capital Formation on Thursday, November 20, 2014, beginning at 9:00 a.m., in the auditorium of the Commission's headquarters at 100 F Street NE., Washington, DC. The forum will be open to the public and webcast on the SEC's Web site. Doors will open at 8:15 a.m. Visitors will be subject to security checks.

The forum will include remarks by SEC Commissioners and panel discussions that Commissioners may attend. Panel topics will include secondary market liquidity for securities of small businesses and the definition of accredited investor.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: November 13, 2014.

Brent J. Fields,

Secretary.

[FR Doc. 2014–27316 Filed 11–14–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, November 20, 2014 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution settlement of administrative proceedings;

Litigation matter; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: November 13, 2014.

Brent J. Fields,

Secretary.

[FR Doc. 2014–27355 Filed 11–14–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73576; File No. SR–FINRA–2014–045]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Rule Cross-References and Make Non-Substantive Technical Changes to Certain FINRA Rules

November 12, 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 31, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by 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

FINRA is proposing to update cross-references and make other non-substantive changes within FINRA rules, primarily as the result of approval of new consolidated FINRA rules.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, on the Commission's Web site at *http://www.sec.gov,* 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, FINRA 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. FINRA 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

FINRA is in the process of developing a consolidated rulebook (''Consolidated FINRA Rulebook'').[4] That process involves FINRA submitting to the Commission for approval a series of proposed rule changes over time to adopt rules in the Consolidated FINRA Rulebook. The phased adoption and implementation of those rules necessitates periodic amendments to update rule cross-references and other non-substantive changes in the Consolidated FINRA Rulebook.

The proposed rule change would make several such changes, as well as other non-substantive changes unrelated to the adoption of rules in the Consolidated FINRA Rulebook.

First, the proposed rule change would update rule cross-references to reflect the adoption of new consolidated supervision rules. On December 23, 2013, the SEC approved a proposed rule change to adopt NASD Rules 3010, 3012, and 3110 as FINRA Rules 3110, 3120, 3150, and 3170, with several

[4] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

changes. FINRA also deleted in their entirety the corresponding Incorporated NYSE Rules 342, 343, 354, 401, 401A and Incorporated NYSE Interpretive Materials 342, 343, and 351.[5] The new rules will be implemented on December 1, 2014. As such, the proposed rule change would update references to the new rule numbers in FINRA Rules 0150 (Application of Rules to Exempted Securities Except Municipal Securities), 1010 (Electronic Filing Requirements for Uniform Forms), 2210 (Communications with the Public), 2220 (Options Communications), 2330 (Members' Responsibilities Regarding Deferred Variable Annuities), 2360 (Options), 5210 (Publication of Transactions and Quotations), 8312 (FINRA BrokerCheck Disclosure), 9217 (Violations Appropriate for Disposition Under Plan Pursuant to SEA Rule 19d–1(c)(2)), and 9610 (Application).

Second, the proposed rule change would make technical changes to FINRA Rules 4553(e)(4) (Definitions), 7410(o) (Definitions), 12104 (Effect of Arbitration on FINRA Regulatory Activities; Arbitrator Referral During or at Conclusion of Case), and 13104 (Effect of Arbitration on FINRA Regulatory Activities; Arbitrator Referral During or at Conclusion of Case) to reflect FINRA Manual style convention changes.

Third, FINRA is proposing to amend Rule 6170 (Primary and Additional MPIDs for Alternative Display Facility Participants) to replace the references to ''TRACS'' with ''ADF,'' consistent with the changes made throughout the Rule 6200 and 7100 Series pursuant to SR–FINRA–2013–053.[6]

Fourth, FINRA is proposing to make non-substantive changes to FINRA Rule 2360(b)(23) (Tendering Procedures for Exercise of Options) to update cross-references resulting from previous amendment to FINRA Options rules.[7] FINRA also is proposing to update the cross-references in Rules 6282(f)(2) to reflect the renumbering of Rule 7130(c) as 7130(f) pursuant to SR–FINRA–2013–053.[8] In addition, FINRA is proposing to amend Rule 7110(i) to correct a cross-reference to Rule 6120, which instead should be to Rule 6220 (Definitions).[9]

Finally, the proposed rule change would also amend Rule 7120(a)(2)(E) to delete a misplaced ''the,'' which was inadvertently proposed in SR–FINRA–2013–053. The text would now read ''each System identified trade.''

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date for the proposed rule change will be December 1, 2014.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change will provide greater clarity to members and the public regarding FINRA's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change brings clarity and consistency to FINRA rules without adding any burden on firms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 [11] and Rule 19b–4(f)(6) thereunder.[12]

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–FINRA–2014–045 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–FINRA–2014–045. 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 FINRA. 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–FINRA–2014–045, and should be submitted on or before December 9, 2014.

[5] *See* Securities Exchange Act Release No. 71179 (December 23, 2013), 78 FR 79542 (December 30, 2013) (Order Approving File No. SR–FINRA–2013–025).

[6] *See* Securities Exchange Act Release No. 71467 (February 3, 2014), 79 FR 7485 (February 7, 2014) (Order Approving File No. SR–FINRA–2013–053).

[7] *See* Securities Exchange Act Release No. 62711 (August 12, 2010), 75 FR 51124 (August 18, 2010) (Order Approving [sic] File No. SR–FINRA–2010–041).

[8] *See supra* note 6.

[9] *See supra* note 6.

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O' Neill,

Deputy Secretary.

[FR Doc. 2014–27187 Filed 11–17–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73577; File No. SR–OCC–2014–20]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Notice of Filing of Proposed Rule Change to Concerning Updates to Clearing Member Documents

November 12, 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 November 10, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b-4(f)(6)[4] thereunder. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by The Options Clearing Corporation (''OCC'') would update the various contracts and forms that, in conjunction with OCC's By-Laws and Rules, establish and govern the relationship between OCC and each clearing member (collectively, the ''Clearing Member Documents'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposed rule change would amend the Clearing Member Documents in order to: (i) Reduce the number of documents by eliminating outdated documents and combining similar documents, when possible; (ii) reflect OCC's current business and operational processes; and (iii) reflect changes in applicable law and conform the documents to OCC's current By-Laws and Rules. The proposed changes to the Clearing Member Documents would not alter any of the requirements for initial or continued OCC clearing membership.

Background

The Clearing Member Documents, in conjunction with OCC's By-Laws and Rules, establish the relationship between OCC and each clearing member and serve as the legal foundation of OCC's ongoing legal and operational relationship with clearing members. OCC recently completed a comprehensive review (the ''Review'') of the Clearing Membership Documents with a view to revising the documents and ensuring that they are consistent with OCC's By-Laws and Rules and current operational processes.

The Clearing Member Documents fall into five general categories:

1. *Application Documents.* These are the primary documents used to identify an applicant's qualifications to become a clearing member of OCC.

2. Core Agreements. These documents establish the contractual agreement between OCC and a clearing member and provide OCC with authority to carry out critical tasks related to clearing membership. These include, among other agreements, the Clearing Member Agreement and various authorizations to draft and authorized signature forms.

3. Services Agreements. These documents govern the provision by OCC of various services to clearing members, such as internet and data distribution services.

4. Appointment Forms. These documents permit clearing members that are not participants in National Securities Clearing Corporation (''NSCC'') and the Fixed Income Clearing Corporation (''FICC'') to, as applicable, effect settlement of physically-settled equity options, single stock futures and Treasury securities option contracts through appointment of another clearing member as its agent with respect to settlement of the relevant product.[5]

5. Product and Account Specific Forms. These documents facilitate a clearing member's ability to clear certain products or allow a clearing member to establish certain types of accounts such as a market maker sub-account.

Proposed Updates to the Clearing Member Documents

A primary focus of the Review was to eliminate outdated documents and consolidate documents when possible. The Review resulted in the number of distinct Clearing Member Documents being reduced from 39 to 21, either by eliminating documents that are no longer operationally required by OCC or by consolidating and streamlining previously distinct documents, each requiring separate execution, into one document. Attached as *Exhibit 3* is a document that lists each of the current Clearing Member Documents and each of the proposed Clearing Member Documents after the consolidation and streamlining effort of the Review. Moreover, the Review did not result in any new substantive legal requirements being imposed upon clearing members.

In addition, a significant number of the Clearing Member Documents are proposed to be updated to reflect terms used in OCC's By-Laws and Rules that have been revised since the Clearing Member Documents were created or last updated, as applicable. Set forth below is a summary of the significant updates proposed to be made to the Clearing Member Documents. The proposed revisions to the Clearing Member Documents will not result in any substantive changes to OCC's membership requirements.

Application Documents

OCC proposes to revise the Application Documents to eliminate sole proprietorship from the category of applicants[6] because OCC staff deemed it extremely unlikely that a sole proprietor would apply for clearing membership. The Application for Membership itself would be updated to include new categories of products an

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s (b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), OCC provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change, or such shorter time as designated by the Commission.

[5] *See,* OCC Rules 901(f), 901(g) and 1403(a).

[6] The revised Application Documents will contain an ''other'' category of applicant, which could be used in the event a sole proprietor applies for clearing membership at OCC.

applicant may apply to be approved to clear that have been added by OCC since the Application for Membership was created. The Application for Membership would also be streamlined to include representations and information previously obtained through separate forms.

In addition to the changes described above, OCC proposes to revise the Letter of Authorization applicants for clearing membership provide to OCC, which authorizes an applicant's primary regulatory agency to directly notify OCC of an applicant's violation, or suspected violation, of the regulatory agency's financial requirements, and of an applicant's impending operational difficulties. OCC is proposing to broaden such authorization so that OCC may receive notification of an applicant's violation of any rule or regulation of the agency, and notification of the agency's knowledge of the applicant's violation of the rules of any relevant self-regulatory organization.

Core Agreements

Like the Application Documents, the Core Agreements would be revised to eliminate the Sole Proprietorship category. OCC also proposes to revise the Clearing Member Agreement and Non-U.S. Clearing Member Agreement to remove outdated corporate procedures such as requiring a corporate seal, and to consolidate multiple signature pages that were formerly contained in separate documents into a single signature page included within the Clearing Agreement and the Non-U.S. Clearing Member Agreement.[7] In addition, the Core Agreements would generally be streamlined to reduce unnecessary documents and to reduce the operational burden on clearing members. Specifically, the multiple versions of the Authorizations to Draft, which permit OCC to draft a clearing member's bank account, and the Clearing Member Certificate and Authorized Signatures, which certifies the individuals authorized to execute documents and submit instructions on behalf of a clearing member (''Authorized Signatories''), would be consolidated from separate forms based on the organizational form of the clearing member into single documents.

Furthermore, clearing members established as corporations would no longer be required to obtain a board of director's resolution in order to authorize specified officers to act on behalf of the corporation as Authorized Signatories. The requirement to obtain a board resolution presented a significant burden for these clearing members and was determined to be overly ministerial and unnecessary from a legal or operational perspective. Accordingly, the revised Clearing Member Authorized Signatory Certificate would only require corporate clearing members, like clearing members that are organized as limited liability companies or partnerships, to provide a certification by any officer that holds the rank of vice president or higher setting forth a list (including specimen signatures) of the corporation's Authorized Signatories. Moreover, this certificate would also permit clearing members to designate a person as ''Designated Representative'' of the clearing member. Designated Representatives, which do not have to be an Authorized Signatory, would be able to take action on behalf of the clearing member in connection with day-to-day routine operational matters such as submitting instructions through OCC's ENCORE system, ENCORE Security Updates and sub account and data distribution service changes. The creation of a Designate Representative is intended to facilitate a completion of routine operational matters.

Services Agreement

OCC proposes to revise its Agreement for OCC Services to reduce the number of documents that a clearing member is required to execute and to move common contractual provisions from individual supplements to the Agreement for OCC Services into the master services agreement. Currently, the Agreement for OCC Services is a one-page master services agreement that further requires a clearing member to execute up to five different supplements setting forth the terms of various services that OCC may provide clearing members. Each supplement contains provisions pertinent to the particular service as well as a number of contractual provisions that are common across all supplements. OCC proposes to streamline this set of agreements by moving such common provisions to the revised Agreement for OCC Services. As a result, each of the supplements would contain only terms and conditions specific to the particular service being selected. These changes would not affect the any substantive terms of the Agreement for OCC Services or any of its supplements.

In addition to streamlining the Agreement for OCC Services, OCC proposes to eliminate the supplement for internet access and move the substantive provisions of such supplement into the master services agreement. Due to the large scale, industry wide, adoption of the internet as the primary means of communication between entities in the financial industry, OCC believes that the master services agreement, and not a supplement, is the more appropriate location for contractual provisions pertaining to clearing member internet access.[8] OCC is also proposing to generally update the Agreement for OCC Services to include or expand on standard contract terms such as provisions governing severability, waiver, governing law and assignment.

Appointment Forms

The Appointment of Clearing Member Agreement permits clearing members that are not participants in NSCC to settle physically settled equity options and single stock futures through NSCC by appointing an ''Appointed Clearing Member.'' OCC propose to update the agreement to require that the Appointed Clearing Member maintain the net capital required by OCC Rule 309A and remain subject to OCC Rule 309A until the appointment is terminated. OCC Rule 309A was not in place when the Appointment of an Appointed Clearing Member Agreement was created.

In addition, the Designation of Clearing Member Agreement permits clearing members that are not participants in FICC to effect settlement of physically-settled Treasury securities options through a ''Designated Clearing Member'' that is a participant in FICC. OCC proposes to revise the agreement to be more consistent with the Appointment of Clearing Member Agreement. Specifically, OCC proposes to amend the Designation of Clearing Member Agreement to: (1) Provide that certain failures under the agreement may be treated as a default or rule violation under OCC's By-Laws and Rules; (2) provide that the designation would remain effective for 30 calendar days after notice of revocation of the designation, and would remain effective thereafter with respect to obligations incurred prior to the effective date of the revocation; and (3) require additional representations from the Designated Clearing Member regarding its continued participation in FICC.

[7] OCC also proposes to memorialize its existing practice that clearing members keep current information provided to OCC such as information provided pursuant to OCC Rule 203.

[8] OCC also requires clearing members who use the internet as their primary means of communicating with OCC to maintain a back-up communication channel. *See* Securities Exchange Act Release No. 70704 (October 17, 2013), 78 FR 63263 (October 23, 2013) (SR–OCC–2013–10).

Product and Account Specific Forms

OCC proposes to eliminate two product specific forms, the Portfolio Margining Notice and the Futures Customers' Segregated Account Letter, as they are no longer operationally necessary. Specifically, and with respect to the Futures Customers' Segregated Account Letter, OCC's By-Laws and Rules contain the relevant customer segregated funds language required for Derivatives Clearing Organizations such as OCC by the Commodity Futures Trading Commission. OCC is also proposing to revise the Universal Market Maker Subaccount Letter, which is used to request an automated service whereby OCC directs transactions into ''universal'' market maker subaccount for a designated market maker or designated group of market makers that trade across multiple exchanges,[9] to conform the indemnity language to the standard indemnity language used in the other Clearing Member Documents.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,[10] because the proposed rule change will remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. The proposed rule change will achieve this purpose by, as set forth in Rule 17Ad–22(d)(1),[11] providing for a well-founded, transparent and enforceable legal framework between OCC and its clearing members as well as between OCC and applicants for clearing membership. The proposed rule change will reduce the number of Clearing Member Documents by eliminating outdated agreements and combining similar agreements, updating the Clearing Member Documents to reflect OCC's current business and operational processes, and conforming the Clearing Member Documents to OCC's current By-Laws and Rules. These changes will more clearly set forth the legal relationship between OCC and its clearing members, as well as applicants for clearing membership, thereby removing any potential impediments that may have resulted from OCC continuing to use outdated Clearing Member Documents. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose a burden on competition.[12] The updated Clearing Member Documents affect applicants for clearing membership as well as current clearing members since OCC intends to have each current clearing member re-execute the Clearing Member Documents applicable to its particular membership. No substantive requirements for clearing membership are proposed to be changed.

With respect to applicants for clearing membership, OCC believes that the proposed rule change will make the application process easier since the new Clearing Member Documents will consolidate clarified and more consistent with OCC's By-Laws and Rules. In addition, OCC will ask each current clearing member to re-execute only the Clearing Member Documents applicable to its particular membership. This request, which will be made of all clearing members, is administrative in nature and will not affect competition among clearing members. Accordingly, OCC does not believe that this proposed rule change will impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors and the public interest;

(ii) impose any burden on competition; and

(iii) become operative for 30 days from the day 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 and Rule 19b–4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment for (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2014–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2014–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_20.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2014–20 and should

[9] Market making firms may have employees that trade across multiple exchanges, with each exchange identifying such employees with a different acronym(s). OCC's Universal Market Maker Subaccount service ensures that all trades entered into by a market marking firm are directed to a specified subaccount of its clearing firm at OCC for position and margin processing purposes.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 240.17Ad–22(d)(1).

[12] 15 U.S.C. 78q–1(b)(3)(I).

be submitted on or before December 9, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27195 Filed 11–17–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73572; File No. SR–CHX–2014–18]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Concerning Certain Order Types, Modifiers and Related Functionality

November 10, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on October 31, 2014, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, 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 various CHX Rules to clarify the operation of certain order types, modifiers and LULD price sliding and to substantively modify the operation of the cross order type and Cross With Size order handling functionality. Aside from the proposed amendments to the cross order type and Cross With Size order handling functionality, the Exchange does not propose to substantively modify the operation of any other functionality. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend various CHX Rules to clarify the operation of certain order types, modifiers and LULD price sliding and to substantively modify the operation of the cross order type and Cross With Size order handling functionality. Aside from the proposed amendments to the cross order type and Cross With Size order handling functionality, the Exchange does not propose to substantively modify the operation of any other functionality.

Amended CHX Article 1, Rule 1(pp) (Working Price)

Under SR–CHX–2014–15, the Exchange adopted, *inter alia,* the term ''Working Price,'' which is defined as ''the most aggressive price at which a resting limit order, as defined under Article 1, Rule 2(a)(1), can execute within the Matching System, in compliance with Rule 611 of Regulation NMS.''[4] While Rule 611 of Regulation NMS is one of the factors that determine the price at which an order for an NMS security could permissibly execute, other rules and plans such as Rule 201 of Regulation SHO and LULD would also determine the most aggressive price at which an order could permissibly execute. Thus, the Exchange proposes to amend CHX Article 1, Rule 1(pp) to provide that ''Working Price'' means the most aggressive price at which a resting limit order can execute within the Matching System in compliance with ''CHX Rules and relevant securities law and regulations, including Rule 611 of Regulation NMS and Rule 201 Regulation SHO.''

Amended CHX Article 1, Rule 2(a)(1) (Limit Order) and CHX Article 1, Rule 2(c) (Order Display Modifiers)

Current CHX Rules imply, but do not explicitly state, that a limit order not marked Reserve Size or Do Not Display is fully displayable. Specifically, CHX Article 1, Rule 2(c) lists three order display modifiers, where paragraph (c)(1) defines ''Always Quote,'' which requires the unexecuted balance of an order priced at the CHX Best Bid or Offer (''BBO'') to be cancelled if it could not be displayed; paragraph (c)(2) defines ''Do Not Display,'' which requires the order to be fully hidden; and paragraph (c)(3) defines ''Reserve Size,'' which requires the order to be partially displayed and partially hidden. Given that there is no order modifier requiring that an order be fully displayable, it can be inferred from CHX Article 1, Rule 2(c) that limit orders are fully displayable, unless marked otherwise.

In the interest of clarity, the Exchange proposes to amend CHX Article 1, Rule 2(a)(1) to add a sentence to the current definition of ''limit order'' to provide that ''all limit orders are fully displayable, unless marked Do Not Display, as defined under paragraph (c)(2), or Reserve Size, as defined under paragraph (c)(3).'' Moreover, since order display modifiers are only relevant for orders that post to the CHX Book[5] and the CHX Book only contains resting limit orders,[6] the Exchange proposes to amend CHX Article 1, Rule 2(c) to provide that ''one or more order display modifiers may be applied to limit orders, subject to the requirements of Article 20, Rule 5, so long as the modifier is compatible with other applicable order modifiers/terms.''

Amended CHX Article 1, Rule 2(b)(1)(A) (BBO Intermarket Sweep Order (''ISO''))

Current CHX Article 1, Rule 2(b)(1)(A) defines BBO ISO and provides, in pertinent part, that a BBO ISO is a limit order modifier that marks an order as required by SEC Rule 600(b)(30) that is to be executed against any orders at the

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6)(iii).

[4] SR–CHX–2014–15 was immediately effective upon filing, but is not yet operative. The Exchange anticipates that the changes effected under SR–CHX–2014–15 will become operative in the first quarter of 2015, pursuant to an Information Memorandum by the Exchange to its Participants published two weeks prior to such time. *See* Exchange Act Release No. 73150 (September 19, 2014), 79 FR 57603 (September 25, 2014) (SR–CHX–2014–15) (''Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt the CHX Routing Services'').

[5] Market and cross orders are always handled Immediate Or Cancel (''IOC''). *See* CHX Article 1, Rule 2(a)(2) and (3); *see also* CHX Article 1, Rule 2(d)(4).

[6] *See* CHX Article 20, Rule 8(b).

Exchange's BBO[7] (including any Reserve Size or undisplayed orders at or better than that price) as soon as the order is received by the Matching System, with any unexecuted balance of the order to be immediately cancelled (if the order is IOC) or placed in the Matching System.[8] While the definition accurately describes the BBO ISO functionality, the Exchange now proposes to replace this portion of the definition of BBO ISO with more efficient language that also provides specificity regarding how the unexecuted balance of a BBO ISO would be handled depending on the state of the CHX Book.[9]

The proposed language begins by providing that an incoming BBO ISO shall execute against the CHX Book at prices not to exceed the more restrictive of its limit price or the contra-side displayed BBO. Although this can be inferred from current CHX Rules, which provide that a limit order cannot execute at a price more aggressive than its limit price[10] and a limit order marked BBO ISO could not execute at a price more aggressive than the Exchange's BBO,[11] the Exchange submits that the proposed language more succinctly describes the interplay between the limit order and BBO ISO pricing limitations.

The proposed language continues by providing that any unexecuted balance of the BBO ISO shall be immediately cancelled if -1- marked IOC or -2- the incoming BBO ISO sell (buy) order could execute against any resting order(s) priced below (above) the displayed best bid (offer), regardless of the attached order duration modifier(s). While the first cancellation scenario is already explicitly stated in the current definition of BBO ISO,[12] the second cancellation scenario is only implied from the fact that a BBO ISO cannot execute at prices more aggressive than the contra-side displayed BBO. If an incoming BBO ISO cannot permissibly execute against resting orders on the CHX Book and since the Exchange's price sliding functionalities (*i.e.,* CHX Only and LULD) are not triggered by the state of the CHX BBO,[13] the only alternative is to cancel the unexecuted balance of the BBO ISO. The following Example 1 illustrates how the second cancellation scenario arises:

Example 1. Assume that the displayed best offer on the CHX Book with respect to security XYZ is $10.02 and there is only one sell order at the displayed best offer for 100 shares (''Sell Order A''). Assume further that there is only one other resting sell order for 100 shares of security XYZ priced at $10.03/share (''Sell Order B''). Assume then that the Matching System receives a buy limit order for 500 shares of security XYZ priced at $10.03/share marked BBO ISO and Day (''Buy Order A'').[14]

In this Example 1, Buy Order A would execute against the full size Sell Order A at $10.02/share, which would result in Buy Order A being decremented by 100 shares. However, pursuant to the BBO ISO instruction, the remaining 400 shares of Buy Order A would be immediately cancelled, notwithstanding the Day order designation, because Buy Order A would not be permitted to execute against Sell Order B at $10.03/share and Buy Order A could not post to the CHX Book at its limit price because that would result in a locked book, which the Exchange never permits.[15]

The proposed language also provides that if the unexecuted balance of the BBO ISO would not be cancelled, it shall be ranked on the CHX Book, pursuant to CHX Article 20, Rule 8(b), and displayed at its limit price, subject to CHX Article 20, Rule 8(b)(6). Although the current definition of BBO ISO does not explicitly provide that a BBO ISO could only be displayed at its limit price, this fact can be inferred from CHX Article 20, Rule 8(b)(1)–(3), which provides that limit orders shall be ranked at each price point up to its limit price.

The proposed language concludes by providing that a limit order marked BBO ISO may not be marked Do Not Display, as defined under CHX Article 1, Rule 2(c)(2). Given that one of the purposes of the BBO ISO is to post a new displayed BBO on the CHX Book, the Exchange believes it important to clarify that a BBO ISO could not be fully hidden. Aside from the foregoing proposed amendments, the Exchange does not propose to amend any other part of the CHX Article 1, Rule 2(b)(1)(A) nor substantively amend the current operation of the BBO ISO in any way.

Amended CHX Article 1, Rule 2(b)(2)(B) (Cross With Satisfy) and Rule 2(b)(2)(C) (Cross With Yield)

CHX Article 1, Rule 2(b)(2)(B) and (C) provides definitions for Cross With Satisfy and Cross With Yield, respectively, which are cross order modifiers that have been deactivated since June 27, 2011, pursuant to the Exchange's authority under CHX Article 20, Rule 4(b). In a previous Rule 19b–4 filing, the Exchange represented that it would only enable these order modifiers pursuant to a clarifying Rule 19b–4 filing.[16]

The Exchange does not intend to amend the functionality of the Cross With Satisfy and Cross With Yield modifiers in the near future and, thus, the Exchange now proposes to delete Cross With Satisfy and Cross With Yield from its rulebook. If the Exchange decides to provide similar functionality in the future, the Exchange will propose new order modifiers pursuant to a Rule 19b–4 filing.

Incidentally, the Exchange proposes to delete all references to Cross With Satisfy and Cross With Yield in the CHX Rules, which, in addition to CHX Article 1, Rule 2(b)(2)(A) and (B), includes references to Cross With Yield and/or Cross With Satisfy under CHX Article 1, Rule 2(g)(1); Article 20, Rule 8(e)(2) and (4); and paragraph .02 of the Interpretations and Policies of CHX Article 20, Rule 8.

Amended CHX Article 1, Rule 2(d)(1) (Day)

CHX Article 1, Rule 2(d)(1) defines ''Day'' as a modifier that requires an order to be in effect only for the day on which it is submitted to the Exchange. While this accurately describes the Day modifier, the Exchange also currently permits order senders to provide specific instructions concerning Day

[7] CHX Article 1, Rule 1(e) defines ''BBO'' as ''the best bid and/or offer *displayed* in the Exchange's Matching System.''

[8] The definition further provides that upon receipt of a BBO ISO, the Matching System will not check the validity of the order against the National Best Bid or Offer (''NBBO'') based on the assumption that the order sender has satisfied Protected Quotations of external markets as required by Rule 600(b)(30) of Regulation NMS.

[9] The Exchange notes that the current definition of BBO ISO has remained substantively unchanged since it was initially approved by the Commission in 2007. *See* Exchange Act Release 54550 (September 26, 2006), 71 FR 59563 (October 10, 2006) (SR–CHX–2006–05) (''Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto to Implement a New Trading Model'').

[10] *See* CHX Article 1, Rule 2(a)(1).

[11] *See* CHX Article 1, Rule 2(b)(1)(A).

[12] *Id.*

[13] CHX Only is triggered based on the price of Protected Quotations of external markets relative to the price of the CHX Only order. *See* CHX Article 1, Rule 2(b)(1)(C). LULD Price Sliding is triggered based on the price of the relevant price bands relative to the price of the limit order. *See* CHX Article 20, Rule 2A(b).

[14] *See* CHX Article 1, Rule 2(d)(1) defining ''Day'' order. The Exchange is also proposing to amend the definition of Day order to include more specificity as to its functionality, as discussed in detail below.

[15] If Buy Order A were not marked BBO ISO, Buy Order A would be permitted to execute against the full size of Sell Order A and the unexecuted balance of 300 shares of Buy Order A would be posted to the CHX Book, provided that the execution and display of the order would be consistent with Regulation NMS.

[16] *See* Exchange Act Release No. 69538 (May 8, 2013), 78 FR 28671 (May 15, 2013) (SR–CHX–2013–10) (''Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Consolidate All CHX Order Types, Modifiers, and Related Terms under One Rule and to Clarify the Basic Requirements of All Orders Sent to the Matching System'').

orders as to which trading sessions under a trading a day the order would be effective. Thus, the Exchange proposes to amend CHX Article 1, Rule 2(d)(1) to add language that reflects this current functionality. Specifically, the proposed language provides that an order sender may identify a limit order marked Day to be effective during specified trading sessions only, as described under CHX Article 20, Rule 1,[17] provided that -1- the identified trading session are consecutive and valid and -2- the order is received during one of the trading sessions for which it is identified as being effective. Moreover, a limit order marked Day without a specified trading session identifier will be considered effective upon receipt and every subsequent valid trading session for the remainder of the trading day.

Specifically, the consecutive and valid requirement means that the identified effective trading sessions, if more than one are identified, must be consecutive (*i.e.,* early, regular and late; early and regular; or regular and late) and that each trading session has to be valid, in that a Day order cannot be identified as being effective during the late crossing session.[18] The requirement that the trading session be received by the Matching System during one of the trading sessions for which it is identified as being effective is meant to prohibit order senders from submitting orders to the Matching System during a trading session for which the order is not effective. For example, if the Matching System receives a Day order identified as regular trading session only during the early session, the order shall be rejected from the Matching System.

Amended CHX Article 1, Rule 2(a)(2) (Cross Order) and Rule 2(g)(1) (Cross With Size)

Current CHX Article 1, Rule 2(a)(2) defines cross order, in pertinent part, as an order to buy and sell the same security at a specific price better than the best bid and offer *displayed* in the Matching System. The Exchange now proposes to require cross orders to be priced better than the Working Price[19] of all resting orders on the CHX Book, as opposed to merely the ''best bid and offer displayed in the Matching System.''[20] As proposed, a cross order would now have to be priced better than any order resting on the CHX Book, including limit orders marked Do Not Display, as all resting orders have a Working Price.

Current CHX Article 1, Rule 2(g)(1) defines the Cross With Size order handling functionality, which is a special order handling functionality for cross orders that meet its price and size requirements. As for the current price requirement, the rule requires the cross order to be at a price equal to or better than the best bid or offer *displayed* in the Matching System. In order to be consistent with the proposed amendment to the cross order type, the Exchange now proposes to amend the price requirement of the Cross With Size modifier to require that the cross be of a price equal to or better than the Working Price of all orders resting on the CHX Book, as opposed to merely the ''best bid or offer displayed in the Matching System.''[21] As proposed, a cross order, in order to be eligible for Cross With Size handling, would now have to be priced at or better than any order resting on the CHX Book, including limit orders marked Do Not Display, as all resting orders have a Working Price.

Moreover, the Exchange proposes to eliminate the prohibition against cross orders marked ISO from being eligible for Cross With Size handling functionality. Given that, from a mechanical standpoint, the ISO modifier only relieves the Exchange from checking the incoming ISO against the NBBO,[22] a cross order marked ISO is identical to a simple cross order in every other way. Thus, the Exchange no longer believes it appropriate to prohibit cross orders marked ISO from being eligible for Cross With Size handling.

Amended CHX Article 20, Rule 2A(b) (LULD Price Sliding)

Under SR–CHX–2014–15, the Exchange, *inter alia,* amended CHX Article 20, Rule 2A(b)(1) to modify the LULD Price Sliding functionality so as to expand the applicability of LULD Price Sliding from fully displayable orders only to all limit orders, regardless of the attached order display modifier.[23] However, in doing so, the Exchange inadvertently overlooked certain paragraphs under Rule 2A(b), which currently describe LULD Price Sliding in the context of displayed prices only. Thus, the Exchange now proposes to make the following amendments to CHX Article 20, Rule 2A(b)(1) to comport the rule to the amendments effected under SR–CHX–2014–15, which permits all limit orders to be eligible for LULD Price Sliding:

- Amend paragraph (b)(1)(A) to replace the phrase ''that would be displayed at a price'' with the more inclusive ''with a limit price'';
- Eliminate the sentence which states, ''an ineligible incoming buy (sell) order that would post at a price above (below) the Upper (Lower) Price Band shall be cancelled,'' because only limit orders may post the CHX Book and all limit orders will be eligible for LULD Price Sliding;[24]
- Amend paragraph (b)(1)(B) to replace the phrase ''displayed at a price'' with the more inclusive ''priced'';
- Eliminate the sentence which states, ''an ineligible resting buy (sell) order that, at the time of entry, was posted at a price at or below (above) the Upper (Lower) Price Band, but, due to movements in the Price Band, would now be posted at a price above (below) the Upper (Lower) Price Band, shall be cancelled,'' because all resting orders will be eligible for LULD Price Sliding;[25] and
- Amend paragraph (b)(1)(C) to replace the term ''displayed'' with the more inclusive ''priced'' and ''price slid to.''

Moreover, the Exchange proposes to amend paragraph (b)(2)(A), which addresses the interplay between LULD Price Sliding and CHX Only Price Sliding.[26] Given that SR–CHX–2014–15, in addition to the amendments to LULD Price Sliding, expanded the applicability of CHX Only Price Sliding to orders that could post at its limit price without violating Regulation NMS (*e.g.,* limit orders marked Do Not Display),[27] the Exchange proposes to replace the phrase ''would be displayed at a price in violation of Rule 610(d) of Regulation NMS, Rule 201 of Regulation SHO'' with the more inclusive ''that

[17] The Exchange has four trading sessions during each trading day, which include the early session, which is from 6:00 a.m. to 8:30 a.m.; the regular trading session, which is from 8:30 a.m. to 3:00 p.m.; the late trading session, which is from 3:00 p.m. to 3:15 p.m.; and the late crossing session, which is from 3:15 p.m. to 4:00 p.m., during which time only cross orders may be executed. *See* CHX Article 20, Rule 1(b); *see also* paragraph .03(a) of the Interpretations and Policies of CHX Article 20, Rule 1. All times are in Central Time.

[18] *Id.*

[19] As proposed above, the Working Price of an order is defined as the ''most aggressive price at which a resting limit order, as defined under Article 1, Rule 2(a)(1), can execute within the Matching System, in compliance with CHX Rules and relevant securities laws and regulations, including Rule 611 of Regulation NMS and Rule 201 of Regulation SHO.''

[20] *See* CHX Article 1, Rule 2(a)(2).

[21] *See* CHX Article 1, Rule 2(g)(1).

[22] *See* CHX Article 1, Rule 2(b)(3)(B).

[23] *See supra* note 4.

[24] *See supra* note 4. Market and cross orders are always handled IOC. *See* CHX Article 1, Rule 2(a)(2) and (3).

[25] *See supra* note 4.

[26] *See* CHX Article 1, Rule 2(b)(1)(C).

[27] *See supra* note 4.

triggers LULD and/or CHX Only Price Sliding'' and include the term ''CHX Rules'' as one of the rules and regulations with which price slid orders must comply. Moreover, in light of the expansion of both LULD and CHX Only Price Sliding, the Exchange proposes to add the term ''if applicable'' immediately after the term ''displayed at'' in light of the fact that undisplayed orders may also be price slid pursuant to CHX Only and LULD Price Sliding.[28]

The Exchange also proposes to amend paragraph (b)(3) to delete the last sentence, which incorrectly cites to an obsolete rule, which was amended under SR–CHX–2014–15. The current citation should have read ''Article 20, Rule 8(b)(7),'' which currently provides that orders price slid pursuant to CHX Only and LULD Price Sliding shall receive order execution priority based first on its working price, then original time of receipt by the Matching System.[29] In light of the fact that the term Working Price has been adopted to apply to the execution price of all resting orders, the Exchange no longer believes it necessary to maintain a redundant rule that specifically refers to the execution priority of price slid orders, as CHX Article 20, Rule 8(b)(1)–(3), as amended by SR–CHX–2014–15, is applicable to all limit orders, including those that have been price slid.[30]

Amended CHX Article 20, Rule 4(a)(7)(D) (Eligible Orders)

Current CHX Article 20, Rule 4(a)(7)(D) provides that orders in securities that customarily trade at a per share price of $100,000 or greater must be submitted in minimum increments of $0.10. This rule provides an exception from current CHX Article 20, Rule 4(a)(5), which provides that unless otherwise permitted pursuant to exemptive relief granted by the Commission, orders priced at or above $1.00 must not be submitted in increments less than $0.01 and orders priced less than $1.00 must not be submitted in increments less than $0.0001.

The Exchange proposes to eliminate the $0.10 minimum price increment requirement for orders in securities priced at $100,000/share. The Exchange does not currently permit the trading of any securities with this minimum price increment. Moreover, eliminating this requirement would make the Exchange's minimum price increment rules consistent with the rules of other exchanges, such as the BATS Y-Exchange (''BYX'').[31]

Amended CHX Article 20, Rule 8(b) (Ranking and display of orders)

Under SR–CHX–2014–15, the Exchange amended, *inter alia,* CHX Article 20, Rule 8(b) to clarify how orders are ranked in the Matching System. In doing so, the Exchange adopted language under Rule 8(b)(1)–(3) that states that ''at each price point up to their limit prices,'' orders shall be ranked ''based on their sequence numbers.'' Given that limit orders could be either buy or sell orders, the Exchange proposes to insert ''or down'' after the phrase ''at each price up,'' so that the rule also contemplates limit *sell* orders being ranked at each price point *down* to its limit price.

Operative Date for Proposed Rule Change

The Exchange proposes to make all amendments proposed within this proposed rule change operative on the same date as all changes proposed under SR–CHX–2014–15, which will become operative upon two weeks' notice by the Exchange to its Participants via Information Memorandum.[32] The Exchange anticipates that all changes in this proposed rule filing and SR–CHX–2014–15 will become operative in the first quarter of 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change to amend various CHX Rules to clarify the operation of certain order types, modifiers and LULD price sliding and to substantively modify the operation of the cross order type and Cross With Size order handling functionality is consistent with Section 6(b) of the Act in general [33] and furthers the objectives of Sections 6(b)(1) [34] and 6(b)(5) in particular.[35]As discussed below, the Exchange believes that the proposed rule change would further enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Participants and persons associated with its Participants, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, in furtherance of the objectives of Section 6(b)(1). The Exchange also believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and, in general, by protecting investors and the public interest, in furtherance of the objectives of Section 6(b)(5).

Specifically, with respect to the non-substantive clarifying amendments, the Exchange believes that clarification of the CHX Rules is consistent with Section 6(b)(1) and Section 6(b)(5) because it improves the transparency and consistency of the CHX Rules, which is in the public interest. Similarly, with respect to the proposed deletion of Cross With Satisfy and Cross With Yield, the Exchange submits that the deletion of the related rules are consistent with Section 6(b)(1) and Section 6(b)(5) because, as a result of such deletion, the CHX Rules, and specifically CHX Article 1, Rule 2, will only list order types and modifiers that are either currently available or only temporary unavailable, pursuant to notice,[36] which would promote clarity as to the Exchange's order types and modifiers, which is also in the public interest.

With respect to the substantive amendments to the cross order type and Cross With Size order handling functionality, the Exchange believes that prohibiting cross orders and Cross With Size orders from trading through better-priced precedent orders resting on the CHX Book is consistent with Section 6(b)(5), because such consistency promotes just and equitable principles of trade by honoring the executable price of every resting order on the CHX Book.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Given that the proposed changes promote clarity as to existing rules and substantively amends other functionality to be consistent with analog functionality of other national securities exchanges or to be more restrictive than they are currently, the Exchange believes that any burden on competition is necessary as clarity and consistency of rules across

[28] *Id.*

[29] The version of CHX Article 20, Rule 8(b)(7) that was not amended under SR–CHX–2014–15, is currently operative. *See supra* note 4.

[30] *See supra* note 4.

[31] *See* BYX Rule 11.11(a).

[32] *See supra* note 4.

[33] 15 U.S.C. 78f(b).

[34] 15 U.S.C. 78f(b)(1).

[35] 15 U.S.C. 78f(b)(5).

[36] *See* CHX Article 20, Rule 4(b).

national securities exchanges further the purposes of the Act.

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

Pursuant to Section 19(b)(3)(A) of the Act[37] and Rule 19b–4(f) thereunder,[38] CHX has designated this proposal as one that effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has also provided 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.[39] Given that the proposed rule change clarifies existing rules, deletes obsolete rules and amends the functionality of the cross order type and Cross With Size order handling to be more restrictive than it is currently, the Exchange believes that this proposed rule filing qualifies for summary effectiveness.

At any time within the 60-day period beginning on the date of filing this proposed rule change in accordance with the provisions of Section 19(b)(1) of the Act,[40] the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, 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 the furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act[41] to determine whether the proposed rule should be approved or disapproved.

[37] 15 U.S.C. 78s(b)(3)(A).

[38] 17 CFR 240.19b–4(f)(6).

[39] 17 CFR 240.19b–4(f)(6)(iii).

[40] 15 U.S.C. 78s(b)(1).

[41] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CHX–2014–18 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.

All submissions should refer to File No. SR–CHX–2014–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CHX–2014–18 and should be submitted on or before December 9, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27185 Filed 11–17–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73580; File No. SR–Phlx–2014–72]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to PIXL Executions in SPY and PIXL Pricing

November 12, 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 31, 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, 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 modify Section I entitled ''Rebates and Fees for Adding and Removing Liquidity in SPY[3]'' and Section IV entitled ''Other Transaction Fees'' of the Phlx Pricing Schedule (''Pricing Schedule''). Specifically, the Exchange proposes to amend its Initiating Order Fee for PIXL[4] Executions in SPY and PIXL Pricing for Initiating Order that is contra to a Customer[5] PIXL order, to allow for volume discounts. While the changes proposed herein are effective upon filing, the Exchange has designated that

[42] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] SPY options are based on the SPDR exchange-traded fund (''ETF''), which is designed to track the performance of the S&P (Standard and Poors) 500 Index.

[4] PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL[SM]). *See* Rule 1080(n).

[5] The term ''Customer'' applies to any transaction that is identified by a member or member organization 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 Rule 1000(b)(14)).

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://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Section I entitled ''Rebates and Fees for Adding and Removing Liquidity in SPY'' and Section IV entitled ''Other Transaction Fees'' of the Pricing Schedule. Specifically, the Exchange proposes to amend the Initiating Order Fee (''Order Fee'') for PIXL Executions in SPY (''SPY Pricing'') and PIXL Pricing for Initiating Orders (''PIXL Pricing'') that is contra to a Customer PIXL order. This would allow for volume discounts for Professional,[6] Firm,[7] Broker-Dealer,[8] Specialist [9] or Market Maker [10] orders that are contra to a Customer PIXL Order, such that the Initiating Order Fee will be reduced to $0.00 if the Customer PIXL Order is greater than 399 contracts. Today, the Initiating Order Fee for options overlying SPY is $0.05 per contract and is not specific to market participants.

The Exchange believes that the proposed pricing will encourage market participants to send an even greater amount of orders to the Exchange through PIXL.

Section IV of the Pricing Schedule specifies PIXL pricing for all other options, except SPY. Today, an Initiating Order is assessed $0.07 per contract or $0.05 per contract if the Customer Rebate Program [11] Threshold Volume defined in Section B is greater than 100,000 contracts per day in a month. Any member or member organization under Common Ownership [12] with another member or member organization that qualifies for a Customer Rebate Tier discount in Section B will receive the PIXL Initiating Order discount as described above. Today, the Initiating Order Fee for Professional, Firm, Broker-Dealer, Specialist and Market Maker orders that are contra to a Customer PIXL Order will be reduced to $0.00 if the Customer PIXL Order is greater than 999 contracts (''volume discount'').

The Exchange proposes to amend 999 contracts to 399 contracts in the volume discount. Section IV PIXL Pricing, as proposed, would state: ''The Initiating Order Fee for Professional, Firm, Broker-Dealer, Specialist and Market Maker orders that are contra to a Customer PIXL Order will be reduced to $0.00 if the Customer PIXL Order is greater than 399 contracts.''

For uniformity, the Exchange also proposes to add the same volume discount in Section I regarding SPY Pricing, so that an alternative to the Initiating Order fee of $0.05 per contract is indicated. Section I SPY Pricing, as proposed, would state: ''The Initiating Order Fee for Professional, Firm, Broker-Dealer, Specialist and Market Maker orders that are contra to a Customer PIXL Order will be reduced to $0.00 if the Customer PIXL Order is greater than 399 contracts.''

The Exchange believes that this amendment to PIXL pricing will encourage a greater number of PIXL Orders on the Exchange, thereby increasing liquidity.

2. Statutory Basis

The Exchange believes that its proposal to amend the Pricing Schedule is consistent with Section 6(b) of the Act [13] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act [14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to adopt new pricing for SPY is reasonable, equitable, and not unfairly discriminatory because pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in the most actively traded options classes. SPY options are currently the most actively traded equity or ETF option class.[15] Other options exchanges price by symbol.[16]

The Exchange's proposed volume discount for SPY Pricing is reasonable because the Exchange desires to incentivize market participants to transact a greater number of SPY options. The Exchange is offering a volume discount specific to SPY because, as previously mentioned, SPY options are currently the most actively traded options class and therefore the Exchange believes that incentivizing Professionals, Firms, Broker-Dealers, Specialists and Market Makers to add increased liquidity in SPY options and encouraging market participants to send order flow to the Exchange by adding a volume discount will benefit all market participants through increased liquidity, tighter markets and order interaction. The Exchange believes it is reasonable to assess lower fees to transact SPY options to Professionals, Firms, Broker-

[6] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1000(b)(14).

[7] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation (''OCC'').

[8] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[9] A ''Specialist'' is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[10] A ''Market Maker'' includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (*See* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (*See* Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

[11] Currently, the Exchange has in place a four tier structure Customer Rebate Program at Section B of the Pricing Schedule which pays Customer rebates on four Categories (A, B, C and D) of transactions. The four tier structure pays rebates based on percentage thresholds of national customer multiply-listed options volume by month based on the same four Categories (A, B, C and D) of transactions.

[12] The term ''Common Ownership'' shall mean members or member organizations under 75% common ownership or control. *See* Preface to the Pricing Schedule.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4), (5).

[15] For September 2014, SPY Options accounted for approximately 14.76% of the overall equity and ETF options volume industry-wide (approximately 12.30% of the overall Phlx volume). By comparison, the second most actively traded equity or ETF option is AAPL, which accounts for approximately 7.80% of the overall equity and ETF options volume industry-wide (approximately 6.00% of the overall Phlx volume).

[16] *See* the Chicago Board Options Exchange Incorporated's Fees Schedule and the International Securities Exchange LLC.

Dealers, Specialists and Market Makers because the Exchange seeks to incentivize these market participants to transact a greater number of SPY options. The Exchange would assess higher fees if the Customer PIXL Order is 399 contracts or less.

The Exchange's proposed new volume discount for SPY Pricing is equitable and not unfairly discriminatory. Today, the Exchange assesses a $0.05 per contract Initiating Order Fee for PIXL Executions in SPY (which apply to fees in Parts A and B). When the PIXL Order is contra to the Initiating Order, a Customer PIXL Order will be assessed $0.00 per contract and all other non-Customer market participants will be assessed a $0.38 per contract fee when contra to an Initiating Order. Also, when the PIXL Order is contra to other than the Initiating Order, the PIXL Order will be assessed $0.00 per contract, unless the order is a Customer, in which case the Customer will receive a rebate of $0.38 per contract; all other contra parties to the PIXL Order, other than the Initiating Order, will be assessed a Fee for Removing Liquidity of $0.38 per contract or will receive the Rebate for Adding Liquidity. The Exchange is proposing to continue to assess the aforementioned fees, and is proposing to amend the volume discount. The Exchange believes that assessing lower Fees for Adding Liquidity, greater than 399 contracts, will incentivize Professionals, Firms, Broker-Dealers, Specialists and Market Makers to interact with a greater number of Initiating Orders in SPY options on the Exchange through PIXL. The Exchange believes that it is equitable and not unreasonably discriminatory to assess the same fees for Initiating Orders in SPY options to all market participants based on volume, or liquidity provided to the Exchange. Creating incentives and attracting SPY Orders to the Exchange benefits all market participants through increased liquidity at the Exchange. A higher percentage of SPY Orders in PIXL leads to increased auctions and better opportunities for price improvement.

In addition, the Exchange notes that the volume discount is currently in place for PIXL pricing.

The Exchange believes that it is reasonable, equitable and not unreasonably discriminatory to reduce the threshold for the PIXL Pricing volume discount from 999 contracts to 399 contracts. With this change in the volume discount,[17] the Initiating Order Fee for Professional, Firm, Broker-Dealer, Specialist and Market Maker orders that are contra to a Customer PIXL Order will be reduced to $0.00 if the Customer PIXL Order is greater than 399 contracts. The volume discount will be applied uniformly to all according to liquidity brought to the Exchange. The Exchange would offer all market participants, other than Customers who are not assessed an Initiating Order Fee, an incentive to transact large sized orders in PIXL. The Exchange believes that the proposal will continue to attract liquidity, which benefits market participants and provides the opportunity for increased order interaction on the Exchange.

The Exchange notes that in order to remain competitive, the Exchange must implement fees and rebates that are competitive with pricing at other options exchanges that offer a similar auction opportunity. SPY options and the PIXL electronic auction are an increasingly important and crucial segment of options trading. The goal is creating and increasing incentives to attract orders to the Exchange that will, in turn, benefit all market participants through increased liquidity at the Exchange.

The proposal allows the Exchange to continue attracting liquidity to the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposal creates a burden on intra-market competition because the Exchange is applying the same SPY option and PIXL Fees to all market participants in the same manner dependent on volume.

The Exchange believes that the proposed new volume discount for SPY options and PIXL Fees creates additional opportunity for incentivizing Professionals, Firms, Broker-Dealers, Specialists and Market Makers to bring additional liquidity to the market. The Exchange believes that effectively assessing lower fees or paying rebates when a market participant brings a certain amount of orders in SPY and other options creates competition among market participants to remove liquidity from the Phlx Book. This competition does not create an undue burden on competition but rather offers all market participants the opportunity to receive the benefit of the pricing when transacting options.

The Exchange's proposal to reduce the threshold for the volume discount for all market participants transacting options on PIXL promotes competition in a highly liquid market and a highly liquid option, SPY. Today, PIXL and SPY pricing is proposed to incentivize Professionals, Firms, Broker-Dealers, Specialists and Market Makers Firms to enter Initiating Orders into the PIXL auction by offering an incentive to reduce the Initiating Order Fee. By expanding the opportunity to all market participants that pay an Initiating Order Fee to reduce those fees, the Exchange encourages competition among market participants to price improve the order.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[18] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective 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:

[17] The volume discount has been in place for more than a year. *See* Securities Exchange Act Release No. 69768 (June 14, 2013), 78 FR 37250 (June 20, 2013) (SR–Phlkx–2013–61) [sic] (notice of filing and immediate effectiveness).

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2014–72 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–Phlx–2014–72. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–72 and should be submitted on or before December 9, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27212 Filed 11–17–14; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73575; File No. SR–CBOE–2014–084]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

November 12, 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 November 3, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 Fees Schedule. 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 Fees Schedule, effective November 3, 2014. The Exchange always strives for clarity in its rules and Fees Schedule, so that market participants may best understand how rules and fees apply. First, the Exchange proposes to remove obsolete language in Footnotes 29 and 30. On October 1, 2014, the Exchange submitted a rule filing to amend its Order Router Subsidy (''ORS'') and Complex Order Router Subsidy (''CORS'') Programs (collectively ''Programs'').[3] In the filing, among other things, the Exchange proposed to cease making payments under both Programs with respect to executed contracts in mini-option classes. The Exchange however, inadvertently did not remove the following statement from Footnotes 29 and 30: ''For billing purposes, mini-options fees will be rounded to the nearest $0.01 using standard rounding rules.'' As mini-options are no longer part of either Program, reference to how mini-option fees would be billed under the program is unnecessary. The Exchange proposes to remove the obsolete language, which will prevent potential confusion and maintain clarity in the Fees Schedule.

The Exchange also proposes to amend its OHS (Order Handling System) Order Cancellation Fee (''Cancel Fee''). By way of background, the Exchange had established this fee to address various operational problems and recoup costs resulting from the practice of immediately following orders routed through the OHS with a cancel request. Currently, the executing Clearing Trading Permit Holder is charged $2.00 for every public customer order (origin code ''C'') that it cancels through the OHS in any month where the total number of cancellations sent by the executing Clearing Trading Permit Holder is in excess of the number of public customer orders that the executing Clearing Trading Permit Holder executes in a month for itself or for a correspondent firm. Additionally, this fee does not apply: (i) if an executing Clearing Trading Permit Holder cancels less than 500 public customer orders through OHS in a month for itself or for a correspondent firm; (ii) to cancelled OHS orders that improve the Exchange's prevailing bid-offer (BBO) market at the time the orders are received; (iii) to fill and cancellation activity occurring within the first one minute of trading following the opening of each options class, (iv) to complex order fills and cancels, (v) to unfilled Fill-or-Kill (FOK) orders, (vi) to unfilled Immediate-or-Cancel (IOC) orders, and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73354 (October 15, 2014), 79 FR 203 (October 21, 2014) (SR–CBOE–2014–75).

(vii) to orders that are entered or cancelled prior to the opening, during the opening rotation, or during a trading halt. The Exchange now proposes to waive the cancellation fee.

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.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] 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 facilitation 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)[6] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes that the proposed clarifications to the Fees Schedule will make the Fees Schedule easier to read and alleviate potential confusion. The alleviation of potential confusion will 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 Exchange believes that it is reasonable and equitable to waive the cancellation fee. The cancellation fee was originally introduced in response to capacity concerns stemming from Trading Permit Holders generating significant order traffic that did not result in executed trades due to orders being cancelled at high rates. However, the total number of monthly cancelled fees assessed has decreased over time. As such, the Exchange believes the fee may no longer be necessary. The Exchange believes it's reasonable to waive the cancellation fee because it will merely result in Trading Permit Holders no longer being subject to this fee. Additionally, the Exchange notes that another exchange has similarly waived its Cancellation Fee.[8] The Exchange does not believe the proposed change is unfairly discriminatory as it applies equally to all Trading Permit Holders, who will no longer be subject to any cancellation fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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. CBOE does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply to all Trading Permit Holders. The Exchange believes that the proposal to waive the cancellation fee will not cause an unnecessary burden on intermarket competition because at least one other exchange has similarly waived its cancellation fee.[9] To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and paragraph (f) of Rule 19b–4[11] 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–CBOE–2014–084 *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–CBOE–2014–084. 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–CBOE–

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] *Id.*

[7] 15 U.S.C. 78f(b)(4).

[8] *See* Securities Exchange Act Release No. 72817 (August 12, 2014), 79 FR 48801 (August 18, 2014) (SR–ISE–2014–039).

[9] *Id.*

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

2014–084 and should be submitted on or before December 9, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27186 Filed 11–17–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73574; File No. SR–NASDAQ–2014–100]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of a Proposed Rule Change To Amend NASDAQ Rule 7015(d) To Include the IPO Indicator as a New Enhancement to the NASDAQ Workstation

November 12, 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 29, 2014 The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ proposes a rule change proposal to amend NASDAQ Rule 7015(d) to include the IPO Indicator as a new enhancement to a NASDAQ Workstation subscription.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is amending Rule 7015(d) to include the IPO Indicator as a new enhancement to the NASDAQ Workstation. In addition to providing order entry and quote functionality, the NASDAQ Workstation also includes several features designed to assist subscribers with managing and monitoring their trading activity.[3] NASDAQ is proposing to include a new feature designed to assist member firms in monitoring their orders in the NASDAQ Halt Cross process leading up to the launch of an initial public offering (''IPO'').

Halt Cross Process

The NASDAQ Halt Cross is designed to provide for an orderly, single-priced opening of securities subject to an intraday halt, including securities that are the subject of an IPO. Prior to the Cross execution, market participants enter quotes and orders eligible for participation in the Cross, and NASDAQ disseminates certain information regarding buying and selling interest entered and the indicative execution price information, known as the Net Order Imbalance Indicator or NOII. The NOII is disseminated every five seconds during a designated period prior to the completion of the Halt Cross, in order to provide market participants with information regarding the possible price and volume of the Cross. The information provided in the NOII message includes the Current Reference Price,[4] which is the price at which the Cross would occur if it executed at the time of the NOII's dissemination, and the number of shares of Eligible Interest,[5] which is defined as any quotation or any order that may be entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross, that would be paired at that price.

NASDAQ also disseminates a Market Order Imbalance, which is defined as the number of shares of Eligible Interest entered through market orders that would not be matched with other order shares at the time of the dissemination of an NOII, if in fact there are such unexecutable market order shares. When there is a Market Order Imbalance, NASDAQ disseminates the imbalance and the buy/sell direction of the imbalance. For example, if a buy-direction Market Order Imbalance is disseminated, potential sellers in the Cross would know that buy liquidity is available at a market price, potentially encouraging them to enter additional sell orders to allow the Cross to proceed.

In addition to disseminating information about Market Order Imbalances, NASDAQ also disseminates information about the size and buy/sell direction of an Imbalance. An Imbalance is defined as the number of shares of Eligible Interest with a limit price equal to the Current Reference Price that may not be matched with other order shares at a particular price at any given time.[6] As noted above, Eligible Interest is defined as any quotation or any order that may be entered into the system and designated with a time-in-force that would allow the order to be in force at the time of the Halt Cross. Thus, the provided information reflects all shares eligible for participation in the Cross, regardless of time-in-force, and includes non-displayed shares and reserve size. As such, the Imbalance information indicates the degree to which available liquidity on one or the other side of the market would not be executed if the Cross were to occur at that time.

Generally, a Halt in a security is terminated when NASDAQ determines to release a security, at which time the Display Only Period begins, culminating in the Halt Cross whereby the security is released for regular hours trading at the price that maximizes the number of shares of trading interest eligible for participation in the Cross to be executed.[7] In the case of an IPO, underwriters to an IPO make a determination to launch an IPO during the Pre-Launch Period [8] when they believe the security is ready to trade. When the underwriter informs

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For example, a Workstation subscription includes tools to assist member firms in complying with Regulation NMS short sale restrictions and compliance with the Limit Up/Limit Down process. *See http://www.nasdaqtrader.com/Trader.aspx?id=Workstation.*

[4] *See* Rule 4753(a)(3)(A).

[5] *See* Rule 4753(a)(5).

[6] *See* Rule 4753(a)(1).

[7] *See* Rule 4753(b) for a description of the processing of the Halt Cross.

[8] The Pre-Launch Period is the second phase of a two-phase process that NASDAQ uses for launching IPOs. The Pre-Launch Period follows a 15-minute Display Only Period and is of no fixed duration. During both periods, the NOII is disseminated every five seconds.

NASDAQ that it is ready to launch the IPO, the NASDAQ system will calculate the Current Reference Price at that time (the ''Expected Price'') and display it to the underwriter. If the underwriter then approves proceeding, the NASDAQ system will conduct two validation checks. Specifically, the NASDAQ system will determine whether all market orders will be executed in the cross, and whether the Expected Price and the price calculated by the Cross differ by an amount in excess of the price band selected by the underwriter.[9] If either of the validation checks fails, the security will not be released for trading and the Pre-Launch Period will continue seamlessly until all requirements are met. Alternatively, the underwriter may, with the concurrence of NASDAQ, determine to postpone and reschedule the IPO.

New IPO Indicator

NASDAQ is proposing the new IPO Indicator to provide member firms with more information about interest in an IPO security. Specifically, NASDAQ is proposing to provide information about the number and price at which shares of a member firm's orders entered for execution in an IPO Halt Cross (''IPO shares'') would execute in an IPO if it were to price at the present time. The IPO Indicator will be offered through the NASDAQ Workstation and will use the NOII information already currently available through a Workstation subscription together with the information about the member firm's orders on NASDAQ.[10] Member firms will access the IPO Indicator from the main Workstation screen, which will allow the subscriber to select an IPO security by ticker and see the Current Reference Price,[11] the number of paired shares, and the number of imbalance shares during the Display Only and Pre-Launch Periods. The screen will also provide the total number of IPO shares the member firm has entered for execution in the IPO Halt Cross, the nature of such shares (buy or sell), and the number of IPO shares that would be executed in the Halt Cross at that time for each of those categories. Member firms will also be able to access further detail on its IPO shares presented by individual order or order block, which will include the number of IPO shares in a particular order or order block, the number and percentage of IPO shares of the order or order block that would be executed in the Halt Cross if it occurred at any given time in the process, based on the NOII disseminated every five seconds, and the price at which the order or order block was submitted. As such, the IPO Indicator will provide member firms with information consistent with what NASDAQ currently disseminates during the IPO launch process, but as it relates to a member firm's orders and in greater detail.

NASDAQ notes that the IPO Indicator will provide member firms with more information on their orders for participation in an IPO Halt Cross, which will, in turn, allow them to make better informed investment decisions. Although, NASDAQ believes the functionality provided by the IPO Indicator will be useful to all member firms seeking to participate in the IPO Halt Cross process, underwriters to an IPO may find the functionality particularly useful as they will have current and ongoing information on the nature of their order book in the IPO shares relative to the orders that would be executed at any given time, thus allowing them to make better informed decisions on the timing of the IPO's launch. In this regard, the IPO Indicator may help an underwriter to make a determination to launch an IPO at a time when the IPO security would likely pass the validation checks, thus increasing the likelihood of a fair and orderly launch of the IPO when the underwriter informs NASDAQ that it is prepared to launch the IPO security.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls and is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposal is consistent with these requirements because it will expand the information made available to market participants about their orders and the interplay of supply and demand of buy and sell orders leading up to the completion of an IPO Halt Cross. The information provided by the proposed IPO Indicator is particularly useful to underwriters of IPOs, who ultimately make the decision to launch an IPO or to postpone it. In this regard, the IPO Indicator will provide underwriters with a near real time assessment of the number and price at which their IPO shares will execute at any given time, consequently allowing them to make better informed decisions with regard to the timing of an IPO's launch. The change will thereby perfect the mechanisms of a free and open market by helping ensure the security price is reasonably stable at the time the underwriter determines to launch the IPO. Moreover, the change will protect investors and the public interest by providing additional transparency regarding the IPO Halt Cross, helping market participants to understand the degree of supply and demand for the security that is the subject of the IPO Halt Cross and the nature of the execution of IPO orders that they would receive at any given time in the IPO launch process.

The Exchange is not proposing to increase the fee assessed for the Workstation under Rule 7015(d). The Exchange notes that it enhances the Workstation from time to time, offering new functionality it believes useful to subscribers, but does not necessarily adjust the charge for subscription with each enhancement. The Exchange believes that keeping the current fee is reasonable because the proposed enhancement to the Workstation will not result in an increase in the cost of a subscription. The Exchange believes that not increasing the Workstation fee is an equitable allocation as the fee remains unchanged for all subscribers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposed change serves merely to increase the information provided by NASDAQ regarding the nature of the execution they would receive in an IPO at any given time in the process, thereby assisting market participants in making informed investment decisions regarding their participation in the IPO Halt Cross. Moreover, the proposed change may enhance competition among exchanges by making the NASDAQ IPO process more appealing to market participants, thereby prompting other exchanges to improve

[9] *See* Rules 4120(c)(8)(A)(ii) and 4120(c)(8)(B).

[10] The information provided by the IPO Indicator is limited to the subscribing member firm's orders.

[11] The Exchange notes that, in situations where there is a Market Order Imbalance, the NOII does not provide a Current Reference Price, since not all market orders could be executed in the cross and therefore there is no price at which the IPO cross could occur.

[12] 15 U.S.C. 78f (b).

[13] 15 U.S.C. 78f(b)(4) and (5).

their processes and the information provided during the launch of an IPO. Lastly, the change does not restrict the ability of market participants to participate in the IPO Halt Cross in any respect, and therefore does [sic] impose any burden on competition among market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–100 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–NASDAQ–2014–100. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–100, and should be submitted on or before December 9, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27189 Filed 11–17–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73579; File No. SR–OCC–2014–807]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of an Emergency Change to OCC's Procedures To Resize the Clearing Fund in Response to Market Conditions

November 12, 2014.

Pursuant to Section 806(e)(2) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Act''),[2] notice is hereby given that on October 16, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the emergency notice as described in Items I and II below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the emergency notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Emergency Notice

This notice is filed by OCC in connection an increase in the size of OCC's Clearing Fund that it has implemented on an emergency basis pursuant to Section 806(e)(2) of the Payment, Clearing, and Settlement Supervision Act.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Emergency Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A and B below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Emergency Notice Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the emergency notice and none have been received.

(B) Emergency Notices Filed Pursuant to Section 806(e)(2) of the Payment, Clearing and Settlement Supervision Act

Description of Change

Emergency Notice

This notice is being filed in connection with an emergency waiver of the provision of OCC's Rules calling for monthly adjustments of its Clearing Fund that would otherwise have required an advance notice under Section 806(e)(1) of the Payment, Clearing and Settlement Supervision Act. Pursuant to Section 806(e)(2) of the Payment, Clearing, and Settlement Supervision Act, a designated financial market utility such as OCC may implement a change that would otherwise require an advance notice if it determines that an emergency exists and immediate implementation is necessary to continue to provide services in a safe and sound manner.[3] For the reasons discussed below, OCC believes that the change was appropriate under this framework, and OCC is now filing this emergency notice in accordance with

[14] 17 CFR 200.30–3(a)(12).

[1] 12 U.S.C. 5465(e)(2).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 12 U.S.C. 5465(e)(2).

the requirements under Sections 806(e)(2)(B) and (C) of the Payment, Clearing and Settlement Supervision Act.[4]

Sizing of the Clearing Fund

Under Commission Rule 17Ad–22(b)(3), OCC is obligated to maintain sufficient financial resources to withstand, at a minimum, a default by the Clearing Member Group to which OCC has the largest exposure in extreme but plausible market conditions.[5] As part of OCC's ongoing compliance with this obligation, it readjusts the size of its Clearing Fund monthly pursuant to OCC's Rule 1001(a). Under Rule 1001(a), the monthly readjustment is based upon daily calculations by OCC during the preceding month of the size of the Clearing Fund that would be necessary, within certain confidence levels, to protect OCC from loss under simulated default scenarios. Recent increased volatility in the financial markets has affected these calculations such that OCC's daily results indicate that the size of the Clearing Fund should be increased to address the potential risk that it could be underfunded in the event of a Clearing Member default. OCC recently proposed a rule change and advance notice that would permit the Clearing Fund to be resized intra-month in the event that the five-day rolling average of projected draws against the Clearing Fund are 150% or more of its then current size.[6] Although that proposal remains pending, OCC calculates that the recent increase in market volatility would have caused that proposed threshold to be exceeded as of October 15, 2014 and determined that an intra-month increase was necessary to minimize the risk of an underfunding of the Clearing Fund.

Nature of the Emergency and Reasons the Clearing Fund Resizing was Necessary

To provide OCC with the necessary flexibility to respond to these dynamic market conditions and increase the size of its Clearing Fund prior to the next resizing scheduled to take place on the first business day in November, OCC has exercised certain emergency powers in Article IX, Section 14 of its By-Laws. In emergency circumstances and subject to certain conditions, that authority permits OCC's Board of Directors, Executive Chairman or President to waive or suspend its By-Laws, Rules, policies and procedures or any other rules issued by OCC or extend the time fixed thereby for the doing of any act or acts.[7] Consistent with that authority, OCC's Executive Chairman on October 15, 2014 determined to waive the provisions in the second sentence of Rule 1001(a) under which the Clearing Fund is readjusted monthly based upon an average of the daily calculations performed by OCC during the preceding calendar month. To respond to the potential risk under prevailing market conditions that the Clearing Fund could be underfunded, which could affect OCC's ability to continue to facilitate prompt and accurate clearance and settlement and to operate in a safe and sound manner, OCC increased the size of the Clearing Fund for the remainder of October 2014 as is otherwise provided for in Rule 1001(a). Accordingly, the original Clearing Fund sizing calculation for October 2014 of approximately $3.8 billion was suspended by OCC and the size of the Clearing Fund was reestablished in an amount of approximately $5.6 billion. The Executive Chairman consulted with the Risk Committee of OCC's Board of Directors and senior staff of the Commission before making this decision. Senior staff of the U.S. Commodity Futures Trading Commission was also informed.

Anticipated Effect on and Management of Risk

Overall, the increase in the size the Clearing Fund reduces the risks to OCC, its Clearing Members and the options market in general because it provides OCC with proper flexibility under current market conditions to establish a Clearing Fund size that OCC believes would be sufficient to protect against losses under current market conditions for a period of not more than 30 calendar days as specified in Article IX, Section 14(c). The change allowed OCC to increase the overall size of its Clearing Fund as a result of a projected increase in potential draws. Accordingly, the change makes it less likely that the Clearing Fund will be insufficient should OCC need to use it to manage a Clearing Member default. The change therefore reduces OCC's overall level of risk and facilitates its management of risk.

Consistency With the Payment, Clearing and Settlement Supervision Act

OCC believes that the increase in the total size of the Clearing Fund was consistent with Sections 805(b)(1)[8] and 806(e)(2)[9] of the Payment, Clearing and Settlement Supervision Act. The change promotes robust risk management[10] by providing OCC with an amount of financial resources it believes would be sufficient to protect OCC against loss in an event of default. The change was appropriate on an emergency basis because OCC determined through daily calculations regarding the sufficiency of the Clearing Fund that increased financial market volatility represented a potential risk that the Clearing Fund could be underfunded if an event of default occurred. The determination to readjust the size of the Clearing Fund as described above was therefore necessary and advisable for the protection of OCC and in the public interest to ensure that OCC's Clearing Fund is sufficient for OCC to be able to provide its services in a safe and sound manner.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

OCC implemented a proposed change that otherwise would be required to be filed as an advance notice because OCC determined that (i) an emergency existed and (ii) immediate implementation was necessary for OCC to continue to provide its services in a safe and sound manner. The Commission may require modification or rescission of the proposed change if it finds it is not consistent with the purposes of the Payment, Clearing and Settlement Supervision Act or any applicable rules, orders, or standards prescribed under Section 805(a) of the Payment, Clearing and Settlement Supervision Act.[11]

Pursuant to Rule 19b–4(n) under the Act,[12] OCC shall post notice on its Web site of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

[4] 12 U.S.C. 5465(e)(2)(B), 12 U.S.C. 5465(e)(2)(C).

[5] 17 CFR 240.17Ad–22(b)(3).

[6] *See,* Securities Exchange Act Release No. 72752 (August 4, 2014), 79 FR 46490 (August 8, 2014) (SR–OCC–2014–17). *See also,* Securities Exchange Act Release No. 72804 (August 11, 2014), 79 FR 48276 (August 15, 2014) (SR–OCC–2014–804).

[7] *See* Securities Exchange Act Release No. 71571 (February 19, 2014), 79 FR 10581 (February 25, 2014) (SR–OCC–2013–23). As noted in the Commission's approval order for that rule change, the change generally aligned OCC's authority in this area with the authority of other registered clearing agencies that already had similar rules allowing them in comparable circumstances to waive or suspend their rules or extend the time fixed thereby for the performance of any act or acts.

[8] 12 U.S.C. 5464(b)(1).

[9] 12 U.S.C. 5465(e)(2).

[10] 12 U.S.C. 5464(b)(1).

[11] *See* 12 U.S.C. 5465(e)(2)(D), 12 U.S.C. 5464(a).

[12] 17 CFR 240.19b–4(n).

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2014–807 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2014–807. 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 emergency notice that are filed with the Commission, and all written communications relating to the emergency notice 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 OCC. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2014–807 and should be submitted on or before December 9, 2014.

By the Commission.

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2014–27211 Filed 11–17–14; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before December 18, 2014.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION: The requested information is submitted by homeowners or renters when applying for federal financial assistance (loans) to help in their recovery from a declared disaster. SBA uses the information to determine the creditworthiness of these loan applicants, as well as their eligibility for financial assistance.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

(1) *Title:* Disaster Home Loan Application.

Description of Respondents: Disaster Recovery Victims.

Form Number: SBA Form 5C.

Estimated Annual Respondents: 36,269.

Estimated Annual Responses: 36,269.

Estimated Annual Hour Burden: 45,336.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2014–27261 Filed 11–17–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before December 18, 2014.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The requested information is submitted by small businesses or not-for-profit organizations who seek federal financial assistance (loans) to help in their recovery from declared disaster. SBA uses the information to determine the eligibility and creditworthiness of these loan applicants.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

(1) *Title:* Disaster Business Application.

Description of Respondents: Disaster Recovery Victims.

Form Number: SBA Forms 5 & 1368.

Estimated Annual Respondents: 6,608.

Estimated Annual Responses: 6,608.

Estimated Annual Hour Burden: 15,414.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2014–27260 Filed 11–17–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–127]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before December 8, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0606 using any of the following methods:

- *Government-wide rulemaking Web site: Go to http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brenda Robeson, ARM–210, Federal Aviation Administration, Office of Rulemaking, 800 Independence Ave. SW., Washington, DC 20591; email *Brenda.Robeson@faa.gov;* (202) 267–4712.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on November 12, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0606.

Petitioner: Michael Starck.

Section of 14 CFR Affected: 14 CFR 61.33 (b)(1).

Description of Relief Sought: Michael Starck requests relief from section 61.133(b)(1). The relief sought would allow Mr. Starck to carry passengers for hire, in an airplane and at night, without holding an airplane-instrument rating on his commercial pilot certificate.

[FR Doc. 2014–27224 Filed 11–17–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0114]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated October 20, 2014, Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2014–0114.

Applicant: Union Pacific Railroad, Mr. Neal Hathaway, AVP Engineering–Signal, 1400 Douglas Street, MS 0910, Omaha, NE 68179.

UP seeks approval of the discontinuance of Control Point K905 at Milepost 4.9, Armourdale, KS, on the Kansas City Metro Kansas Subdivision. All signals will be discontinued and all power-operated switches will be converted to hand operation. The purpose of the discontinuance is to reestablish remote control locomotive operations through this area.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200

New Jersey Avenue SE., W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Communications received by January 2, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on November 12, 2014.

Ron Hynes,

Director of Technical Oversight.

[FR Doc. 2014–27219 Filed 11–17–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 78]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) Meeting.

SUMMARY: FRA announces the fifty-second meeting of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The RSAC meeting topics will include opening remarks from the FRA Administrator, and status reports will be provided by the Tourist and Historic, Recording Devices, and Rail Integrity Working Groups. A status report will also be provided by the Engineering Task Force. FRA will propose a new task for committee consideration regarding remotely controlled locomotives. This agenda is subject to change, including the possible addition of further proposed tasks.

DATES: The RSAC meeting is scheduled to commence at 9:30 a.m. on Thursday, December 4, 2014, and will adjourn by 4:30 p.m.

ADDRESSES: The RSAC meeting will be held at the National Housing Center, 1201 15th Street NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Kenton Kilgore, Acting RSAC Administrative Officer/Coordinator, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6286; or Jamie Rennert, Deputy Associate Administrator for Regulatory and Legislative Operations, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6474.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The RSAC was established to provide advice and recommendations to FRA on railroad safety matters. The RSAC is composed of 62 voting representatives from 36 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, and the Federal Transit Administration. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the RSAC Web site for details on prior RSAC activities and pending tasks at *http://rsac.fra.dot.gov/.* Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for additional information about the RSAC.

Issued in Washington, DC, on November 12, 2014.

Robert C. Lauby,

Associate Administrator for Railroad Safety/Chief Safety Officer.

[FR Doc. 2014–27252 Filed 11–17–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–1999–6253]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that the Utah Transit Authority (UTA) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations. FRA assigned the petition Docket Number FRA–1999–6253.

UTA, operator of the TRAX light rail system in Salt Lake City, UT, seeks an extension/partial modification of the current terms and conditions of its current Shared Use waiver of compliance from certain provisions of Title 49. The TRAX system is operated with temporal separation on track owned by UTA and shared partially with Utah Railway Company and Savage Bingham & Garfield Railroad Company freight trains dispatched by UTA. Safety oversight of UTA is the responsibility of the Federal Transit Administration via the Utah Department of Transportation as prescribed in 49 CFR Part 659. UTA was granted the original Shared Use waiver by the FRA Railroad Safety Board on August 19, 1999, for the North-South Line; the waiver was modified on March 25, 2011, to include a portion of the Mid-Jordan extension with its additional new Siemens S70 rolling stock. With this request, UTA is modifying the limits of Shared Use of the North-South Line to reflect the cessation of freight service south of 6100 South as part of the new transit-exclusive Draper Extension to the North-South Line.

Noting these various operational and infrastructure changes occurring on the TRAX system over the last several years, and the associated modifications to the regulatory relief granted by FRA, UTA is requesting that FRA extend the regulatory relief granted to date related to the TRAX system (inclusive of North-South and Bingham Extension portions that feature nightly freight service and thus a connection with the general railroad system) and coordinate that relief so that all such waivers will expire at the same time—5 years from the date of FRA's decision letter. UTA submits that the extension and modifications of the waiver sought are in the public interest and consistent with railroad safety because UTA will adopt specific policies and procedures that will provide a level of safety equivalent to that provided by full compliance with FRA regulations. UTA submits that this request is consistent with the waiver process for Shared Use. See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000);

see also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42626 (July 10, 2000).

Specifically, UTA requests relief from the following provisions of Title 49 of the CFR: Part 210—Railroad Noise Emission Compliance; Part 217—Railroad Operating Rules; Part 218—Railroad Operating Practices; Part 219—Control of Alcohol and Drug Use; Part 220—Railroad Communications; 221.13(d) and 221.14(a) (pertaining to rear end marking devices); 223.9(c), 223.15(c) and 223.17 (pertaining to safety glazing standards and emergency windows); certain aspects of Part 225—Railroad Accidents/Incidents; Part 228—Hours of Service (A–E); 229.46–229.59, 229.61, 229.65, 229.71, 229.77(b), 229.125, 229.135 (pertaining to locomotive safety standards); 231.14 (pertaining to railroad safety appliance standards); 234.105 (pertaining to grade crossing signal systems safety and activation failures); 238.113, 238.115(b), 238.203, 238.205(b), 238.207, 238.209, 238.211, 238.213, 238.215, 238.217, 238.221, 238.229, 238.231, 238.233, 238.301–238.319 (pertaining to passenger equipment safety standards); Part 239—Passenger Rail Emergency Preparedness; Part 240—Qualification and Certification of Locomotive Engineers; Part 242—Conductor Certification.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by January 2, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on November 12, 2014.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2014–27217 Filed 11–17–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0106]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that by a document dated October 16, 2014, the Metropolitan Transportation Authority's (MTA) Metro-North Railroad (MNCW) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from several provisions of the Federal railroad safety regulations. Specifically, MNCW requests relief from certain provisions of 49 CFR part 240, Qualification and Certification of Locomotive Engineers, and 49 CFR part 242, Qualification and Certification of Conductors. The request was assigned Docket Number FRA–2014–0106. The relief is contingent on MNCW's implementation of and participation in the Confidential Close Call Reporting System (C^{3}RS) pilot project.

MNCW seeks to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in 49 CFR 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; and 242.403(b), (c), (e)(1)–(4), (e)(6)–(11), and (f)(l)–(2).

The C^{3}RS pilot project encourages certified operating crew members to report close calls and protect the employees and the railroad from discipline or sanctions arising from the incidents reported per the C^{3}RS Implementing Memorandum of Understanding.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within January 2, 2015 of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov

or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on November 12, 2014.

Ron Hynes,

Director of Technical Oversight.

[FR Doc. 2014–27218 Filed 11–17–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request; Office of the Fiscal Assistant Secretary

AGENCY: Departmental Office, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury invites the general public and other Federal agencies to comment on extension of an existing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The Department of the Treasury is soliciting comments concerning the Application, Reports, and Recordkeeping for the Direct Component and the Centers of Excellence Research Grants Program of the RESTORE Program.

DATES: Written comments should be received on or before January 20, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to Janet Vail, U.S. Department of the Treasury, RESTORE Act, Room 1132, Washington, DC 20220, or by email to *restoreact@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Janet Vail, U.S. Department of the Treasury, RESTORE Act, Room 1132, Washington, DC 20220, or by email to *restoreact@treasury.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1505–0250.

Title: Application, Reports, and Recordkeeping for the Direct Component and the Centers of Excellence Research Grants Program of the RESTORE Program.

Abstract: The Department of the Treasury administers the Direct Component and the Centers of Excellence Research Grants Program authorized under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE). These programs require Treasury to make grants from the Gulf Coast Restoration Trust Fund to five States and certain Florida counties and Louisiana parishes impacted by the Deepwater Horizon Oil Spill. The information collected will be used to identify eligible recipients; describe proposed activities; determine an appropriate amount of funding; ensure compliance with applicable laws; track grantee progress; and report on the effectiveness of the programs.

Type of Review: Extension of a currently approved collection.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 52.

Estimated Annual Response: 557.

Estimated Annual Burden Hours: 6,864.

Request for Comment: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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 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.

Dated: November 13, 2014.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2014–27229 Filed 11–17–14; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 222 November 18, 2014

Part II

The President

Memorandum of November 13, 2014—Authorizing the Exercise of Authority Under Public Law 85–804

Federal Register
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Presidential Documents

Title 3—

The President

Memorandum of November 13, 2014

Authorizing the Exercise of Authority Under Public Law 85–804

Memorandum for the Administrator of the United States Agency for International Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

The Administrator of the United States Agency for International Development (USAID) is authorized to exercise authority under Public Law 85–804, as amended (50 U.S.C. 1431 *et seq.*), to the same extent and subject to the same conditions and limitations as the head of an executive department or agency listed in section 21 of Executive Order 10789 of November 14, 1958, as amended, with respect to contracts performed in Africa in support of USAID's response to the Ebola outbreak in Africa where the contractor, its employees, or subcontractors will have significant exposure to Ebola. This authority may be exercised solely for the purpose of holding harmless and indemnifying contractors with respect to claims, losses, or damage arising out of or resulting from exposure, in the course of performance of the contracts, to Ebola.

The USAID is exercising functions in connection with the national defense in the course of complying with its humanitarian mandate, and there is a relevant state of national emergency that authorizes use of Public Law 85–804. I deem that the authorization provided in this memorandum and actions taken pursuant to that authorization would facilitate the national defense.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

You are hereby authorized and directed to publish this memorandum in the **Federal Register**.

THE WHITE HOUSE,
Washington, November 13, 2014.

[FR Doc. 2014–27466
Filed 11–17–14; 11:15 am]
Billing code 6116–01

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